

# The Gazette of India

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## NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 8th April 1959 :—

Issue No.	No. and date	Issued by	Subject
50	S.O. 737, dated 2nd April, 1959.	Ministry of Steel, Mines and Fuel	Fixation of prices at which coal/coke overloaded at any weigh-bridge may be sold by colliery-owners.
	S.O. 738, dated 2nd April, 1959.	Do.	Fixation of prices at which coal, coke may be sold by colliery-owners.
51	S.O. 739, dated 4th April, 1959.	Ministry of Information and Broadcasting.	Approval of films specified therein.
52	S.O. 786, dated 7th April, 1959.	Ministry of Steel, Mines and Fuel.	Amendment to S.O. 737, dated 2nd April, 1959.
	S.O. 787, dated 7th April, 1959.	Do.	Amendment to S.O. 738, dated 2nd April, 1959.
53	[S.O. 788, dated 8th April, 1959.	Election Commission, India.	Calling upon elected members of the Legislative Assembly of Orissa to elect a person to fill a vacancy.
	S.O. 789, dated 8th April, 1959.	Do.	Appointment of dates and time for the above election (S.O. 788).
	S.O. 790, dated 8th April 1959.	Do.	Appointment of Shri Nilakantha Rath, Secretary, Orissa Legislative Assembly to be the Returning Officer for the above election (S.O. 788)

Issue No.	No. and date	Issued by	Subject
	S.O. 791, dated 8th April, 1959.	Election Commission, India.	Appointment of Shri Jaipal Jee, Asstt. Secy., Orissa Legislative Assembly to assist the Returning Officer in connection with the above election (S.O. 788).
	S.O. 792, dated 8th April, 1959.	Do.	Fixation of hours during which poll shall be taken in connection with above election (S.O. 788).

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

### PART II—SECTION 3—Sub-section (ii)

**Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).**

#### ELECTION COMMISSION, INDIA

*New Delhi, the 6th April 1959*

**S.O. 795.**—In exercise of the powers conferred by sub-section (1) of Section 22 of the Representation of the People Act, 1951, the Election Commission hereby cancels its Notification No. 434/12/58(1) dated the 22nd January, 1959/Magha 2, 1880 (Saka) published in the Gazette of India, Extraordinary, Part II—Section 3—Sub-section (ii), dated the 24th January, 1959/Magha 4, 1880.

[No. 434/12/58(1).]

By order

S. C. ROY, Secy.

*New Delhi, the 6th April 1959*

**S.O. 796.**—Whereas the election of Shri Manak Lal, as a member of the House of the People from the Mandsaur constituency, has been called in question by an election petition duly presented under part VI of the Representation of the People Act 1951 (43 of 1952), by Shri Umashanker Muljibhai Trivedi, of 11 Neemuch Cantonment, Madhya Pradesh;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition dismissed the said election petition by an order dated the 15th January, 1958, published in the Gazette of India, Extraordinary, dated the 6th February, 1958.

And whereas the High Court of Madhya Pradesh, Jabalpur, on the first appeal No. 32 of 1958, remitted the case to the Election Tribunal for trial in accordance with law by its order dated the 8th May, 1958, published in the Gazette of India dated the 14th June, 1958.

And whereas the Election Tribunal after further trial of the petition has in pursuance of the provisions of section 103 of the said Act, sent a copy of its order in the said petition to the Commission.

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal.

IN THE COURT OF SHRI C. B. KEKRE, MEMBER, ELECTION TRIBUNAL,  
UJJAIN (M.P.)

ELECTION PETITION No. 62 OF 1957.

Umashanker Muljibhai Trivedi of 11 Neemuch Cantonment, Madhya Pradesh.—*Petitioner.*

*Versus*

1. Shri Manaklal of Rampura.
2. Shri Koksingh, Mantri Ram-Rajya Parishad, Mandsaur.
3. Shri Shyam Singh, Dalauda Sugar Mill, Dalauda.
4. Shri Shivdarshanlal of Mandsaur.—*Respondents.*

# ORDER

(Passed on this the 3rd day of March, 1959)

1. The defeated candidate, Shri Umashankar Trivedi, petitioner has filed this Election Petition under section 80 of the Representation of People Act for setting aside the election of respondent No. 1, Shri Manaklal, to the Lok-Sabha from the Mandsaur Parliamentary Constituency in the Madhya Pradesh. He has also prayed that he be declared duly elected.

2. The Petitioner, who is a Barrister-at-law, is an office bearer, being Treasurer, of Jan-Sangh Party. He was a sitting member of the Lok-Sabha at the time of previous general election held in 1957. Respondent No. 1 belongs to the Congress Party. Respondent No. 2 who was also a candidate at the election had retired from the contest. There were, thus, four candidates left in the field—the petitioner, and the respondents 1, 3 and 4. The polling took place in some parts of the constituency on 25th February, 1957 and in the rest of the constituency on 1st March, 1957. Respondent No. 1 secured 77789 votes, while petitioner secured 56928 votes. The former was declared elected.

3. Parts of this constituency adjoin the Chittorgarh district of Rajasthan where Meera, Sati Padmni and Rana Pratap are held in esteem bordering on reverence.

4. Before the dates of poll two pamphlets, Exhibits P. 1 and P. 2, with almost identical contents were printed, Exhibit P. 1 at Bharat Printing Press, Mandsaur, and the other, Exhibit P. 2, at Neemuch Printing Press, Neemuch. These pamphlets appear to have been widely distributed in this constituency. They purport to be issued over the signatures of a large number of persons most of whom are described as Sarpanch or Pancha of Gram-Panchayats.

5. These pamphlets addressed to the electors of this constituency, called upon them to vote for respondent No. 1 Congress Party candidate. The heading of the pamphlets in bold letters is as follows:—

“मंदसार मंडल क्षेत्र के मतदाताओं

मति पद्धति, महाराणा प्रताप और मीरा का चिन्तन आप दे रहा है

बैरिस्टर त्रिवेदी ने जनता को धोखा दिया

कानूनी माई की संगीत का बदला जरूर लेना”

6. The pamphlets contain other matters which I need not set out. Though that matter was stated to be false and relating to the personal character of the petitioner, no issue has been framed on those allegation for reasons given in my order dated 22nd December, 1958.

7. It may here be mentioned that at the stage of evidence the petitioner put a question to the very first witness to prove falsity of certain allegations in these pamphlets. This question was disallowed as falsity of the allegations was not subject matter of any issue. The petitioner then applied for framing an issue on the basis of allegations in the petition that the pamphlets contained false statements relating to his personal character. That application was rejected, as also a subsequent application for leave to amend the petition by stating therein that the matters referred to were not only false, but the respondent No. 1 knew and believed the allegations in the pamphlets against the petitioner to be false, or did not believe them to be true.

8 I shall set out only such allegations of the petitioner in respect of which issues have been framed. He alleged that the pamphlets, Exhibits P 1 and P 2 were published and distributed by respondent No 1 at certain places mentioned, and that he had read them out at the places named and on the dates specified in the petition. According to the petitioner, the respondent No 1 had thereby committed the corrupt practice of exercise of undue influence, in as much as it amounted to interference with the free exercise of electoral right by the voters, because the voters were induced to believe by contents of the pamphlets, that this petitioner would be rendered an object of spiritual displeasure, having been cursed by Sati Padmni and Meera.

9 The other grounds on which the election of respondent No 1 was sought to be set aside and regarding which issues have been framed are —

- (1) Canvassing at polling stations, calling upon voters to vote for respondent No 1
- (2) Leaving the column meant for entering the symbol of the candidate blank against the name of the petitioner in the list of contesting candidates at certain polling stations
- (3) Presiding Officer at polling station No 32 not allowing polling of petitioner to enter the polling station
- (4) Unauthorised person being allowed to enter the polling station No 17

10 There were other allegations in the petition, such as propaganda that the Jan Sangh Party was responsible for the murder of Mahatma Gandhi, preventing workers of petitioner from carrying on canvassing at certain polling stations, government servants working for respondent in the election, appeal to the voters to vote for government, appeal to Muslims to vote for Congress Party which were not made subject matter of issue either for want of particulars, or because the allegations made did not constitute grounds for setting aside the election.

11 The petitioner was heard *ex parte* against respondents 2, 3 and 4. Respondent No 1 denied that he either published or distributed the hand-bills, Exhibits P 1 and P 2, or read them out at the places mentioned in the petition. It was denied that the matter contained in the hand-bills interfered with the free exercise of the electoral right or amounted to undue influence by inducing voters to believe that the petitioner would be rendered an object of divine displeasure, or was cursed by Meera, and Sati Padmni. The allegations forming the other grounds for setting aside the election as set out in para No 9 above were also denied.

12 It was alleged that the petition had not been presented by person duly authorised, and that as the necessary deposit had not been made in accordance with section 117 Representation of People Act the petition was liable to be dismissed.

13 The last mentioned objection was tried as a preliminary issue, and my predecessor, who had been appointed as Member Election Tribunal for the trial of the petition, passed order dated 15th January, 1958, upholding that objection, and dismissed the petition for non-compliance with requirements of section 117 of the Act. On appeal the Madhya Pradesh High Court set aside that order, and remitted the petition for trial in accordance with law. When the petition came up before me I discarded the issues that had already been framed, and framed fresh issues.

14 The parties went to trial on the following issues, and my finding on them are given against each —

- |   |      |
|---|------|
| 1 Whether the petition has been presented by person duly authorised in writing by the petitioner?   | Yes. |
| 2 Whether Respondent No 1 published and distributed handbill marked 'A' between the dates of nomination and 1st March, 1957?                                    | Yes  |
| 3 Whether this handbill attempted to induce the voters to believe that the petitioner will be rendered an object of spiritual censure?                          | No   |
| 4 (a) Whether Nandkishore distributed news-sheet DHWAJ calling upon voters to vote for Respondent No 1 at polling stations Nos 2 and 3 in Sitamau Constituency? | No   |
| (b) Has the result of the election been materially affected thereby?  | No   |

5. (a) Whether column meant for symbols was blank against the name of the petitioner in the list of contesting candidates exhibited at polling stations—Bawal, Morwan, Ratangarh, Bhojpura Lasur, Janakpur, Tarapur and Bhadwa? No.
- (b) Has it materially affected result of the election? No.
6. (a) Whether the presiding officer at Polling station No. 32 Jaora town did not allow the polling agent of petitioner to enter the polling station? No.
- (b) Has it materially affected the result of election? No.
7. (a) Whether on 1st March, 1957 an unauthorised person, Tehsildar of Malhargarh, entered the place fixed for poll at polling station No. 17? No.
- (b) Has it materially affected the result of election? No.
8. (a) Whether Fakhruddin and Ramswaroop on 25th February, 1957 canvassed within 100 yards of every polling station in Neemuch? No.
- (b) Whether this has materially affected the result of the election? No.
9. Is the election of Respondent No. 1 void? No.
10. Is the petitioner entitled to be declared elected? No.

#### REASONS FOR FINDING

15. *Issue No. 1.*—The petition bears the endorsement of Under Secretary to the Election Commission to the effect that it was presented by Shri K. Y. Borkar, who had been duly authorised by the petitioner to present it. This making of endorsement was an official act, and there would be presumption that what was stated in the endorsement that Shri K. Y. Borkar had the required authority was correct, and that the Election Commission had satisfied itself about the existence of such authority. I, therefore, find this issue in the affirmative.

16. *Issue Nos. 4(a)(b), 5(a)(b), 6(a)(b), 7(a)(b), and 8(a)(b).*—The burden of proving the allegations covered by issues 4(a), 5(a), 6(a), 7(a) and 8(a) lay on the petitioner. He has not adduced any evidence on the points covered by these issues. I find them in the negative. It follows that issues 4(b), 5(b), 6(b), 7(b) and 8(b) have to be answered in the negative. I answer them accordingly.

17. Before considering issues 2 and 3 it is well to point out that it is now a well settled proposition that an inquiry into allegation about commission of corrupt practice is quasi-criminal in nature, and that the standard of proof required is the same as is required of prosecution to establish the guilt of an accused. It is unnecessary to set out numerous decisions on this point since this proposition is now well established. Though the burden of proof is on the petitioner, the respondent is not absolved of his duty to adduce evidence regarding facts within his special knowledge.

18. It is also to be pointed out that the witnesses examined by the petitioner are, except Gyarsilal P.W. 2 and Shamlal P.W. 8, active workers of the Jan Sangh Party of which the petitioner is an office bearer. Similarly, the witnesses examined by respondent No. 1 worked actively for the election campaign of respondent No. 1 at the time of last general election. However, this circumstance by itself would not be enough to discard their evidence. That would only necessitate that their evidence should be scrutinised carefully before accepting it.

19. *Issue No. 2.*—The evidence adduced by the petitioner on this issue may be classified as follows:—

1. The evidence of witnesses who saw the respondent No. 1 at the Neemuch Printing Press when Exhibit P. 2 was being printed there on the 20th February, 1957 and his taking active interest in having it printed. The witnesses on this point are Kanhaiyalal P.W. 3, Chitarmal P.W. 5 and Shamlal P.W. 8.
2. Witnesses who saw respondent No. 1 emerging out of the press with bundles of copies of leaflet Exhibit P. 2, getting into a car, and distributing copies of P. 2 when the car proceeded towards Neemuch City from the press. Gyarsilal P.W. 2, Udcram P.W. 4 and Kishanchand P.W. 7 depose about this.

3. Witnesses who saw respondent No. 1 distributing pamphlets Exhibit P. 1 and P. 2 at various places and reading them out at the places mentioned against each witness. They are:—Laxminarayan Pandey P.W. 1 (at Ringnod), Mohansingh P.W. 6 (at Mandasaur), Vimal-kumar P.W. 9 (at Phampur), and Satyanarayan P.W. 10 (at Singoli and Ratangarh), and Virendra Kumar P.W. 12 (at Singoli).

Khumansingh P.W. 11 and Sundarlal Patwa P.W. 13 say about distribution of pamphlets Exhibits P. 1 and P. 2, but they do not say that it was respondent No. 1 who was distributing them. I shall therefore not discuss their evidence since issue No. 2 relates to publishing and distribution of these pamphlets by respondent No. 1.

20. The witnesses examined by respondent No. 1 have deposed, in order to counter the evidence of witnesses for the petitioner, that no such distribution of pamphlets took place. It is significant that all these witnesses of respondent No. 1 who had toured the entire constituency extensively for the election campaign of respondent No. 1, say that they never came across these pamphlets Exhibits P. 1 and P. 2 at any time during the election. It may be that it is tried to be suggested that these pamphlets were brought into existence later to create basis for election petition. That suggestion cannot for a moment be countenanced.

21. As early as the 22nd February 1957, even before the polling took place, and only two days after the 20th February 1957 when P. 2 is said to have been printed, and immediately after it is said to have been distributed, the petitioner had addressed a letter Exhibit P. 6 to one Ramchandra one of the persons purporting to have signed these pamphlets. Therein he had referred to the distribution of such pamphlets. It is, therefore, beyond doubt that such pamphlets were in fact distributed even before the 22nd February 1957.

22. These pamphlets were meant to run down the petitioner, a candidate opposing respondent No. 1 the Congress Party candidate, and to canvass votes for the latter. It is but natural that these pamphlets which form an important item in the election campaign of the Congress Party, would be widely distributed. They were certainly not got printed just to be put in cold storage. Yet, it is strange that none of the witnesses for respondent No. 1, who toured the constituency should have come across a single copy of such pamphlets even though they toured the constituency when these pamphlets are said to have been distributed. I am, therefore, not prepared to believe the statements of these witnesses of respondent No. 1 that they did not come across any such pamphlets. That would justify a conclusion that the witnesses, including respondent No. 1, are not telling the truth when they say that they did not come across any such pamphlets. Their evidence is liable to be viewed with some suspicion.

23. I shall now consider the evidence adduced by the petitioner that respondent No. 1 was at Neemuch Printing Press when Exhibit P. 2 was being printed there. P.W. 3 Kanhaiyalal, who is an employee of another printing press at Neemuch, says that he was called on the 20th February 1957 at about 11 A.M. by Rameshchandra, the proprietor of the Neemuch Printing Press, to set in working order the treadle machine of his Press which had stopped working due to some disorder. He went there, found the matter of Exhibit P. 2 on the machine, repaired it, and in the meanwhile respondent No. 1 along with one Gulabchand Sethi, who is the President of Mandal Congress Committee, reached there. He was requested by respondent No. 1 to stay on to ensure that the machine would not again stop working and at about 2 or 3 P.M. respondent No. 1 and Gulabchand left with bundles of copies of pamphlet P. 2 in a car, and while proceeding in the car respondent No. 1 was distributing pamphlet P. 2.

24. His evidence was criticized for the respondent No. 1 on the ground that though he came to know of Exhibit P. 2 affecting prospects of petitioner's election he did not communicate with the petitioner and that he received no payment for the services rendered by him. His evidence, it was submitted, was therefore liable to be rejected as not reliable. I do not think so. He rendered casual service to a sister concern and it is nothing unnatural that he was not paid for such trifling service. At the time of printing of P. 2 this witness was not assisting the petitioner in the election campaign. There would be nothing unnatural if he had not pursued the matter by contacting the petitioner. He remembers the date of printing to be 20th February 1957 because two days later on the 22nd February 1957 a pamphlet in reply to allegations in Exhibit P. 2 was got printed at the press where he is employed. I do not find anything

in his cross-examination to doubt him as a person who has come forward just to oblige the petitioner who belongs to the same political party to which he belongs.

25. Chitarmal P.W. 5 is a trader who gets his forms and bills printed at the Neemuch Printing Press. He says that on hearing that a pamphlet containing allegations against the petitioner was being printed at the Neemuch Printing Press he out of curiosity went there to see what exactly was being printed, and gained access inside on the pretext of having to get his bills printed. He corroborates Kanhaiyalal P.W. 3 about Exhibit P. 2 being in the process of printing and about respondent No. 1 and Gulabchand leaving with copies of pamphlets and going away in a car distributing them. He as a member of Jan Sangh Party to which the petitioner belongs. But that alone, as already stated earlier, should not be enough to reject his evidence. His evidence finds support from that of Shamlal P.W. 8 who does not belong to the Jan Sangh Party and who cannot be said to be a person interested in the petitioner.

26. Shamlal P.W. 8 sells news-sheet Sanket which is printed at the Neemuch Printing Press. He goes to that press daily to render account of the sales. According to him when on that particular day he went to the press he found copies of P. 2 on the floor which he tied up into bundles at the instance of the proprietor Rameshchandra and handed them to respondent No. 1 and Gulabchand Sethi. I see nothing in the cross-examination of this witness, who appears to be a disinterested one, to view his testimony with suspicion.

27. In order to counter this evidence respondent No. 1 has examined Kasturchand R.W. 7 and Girwarsingh R.W. 11, who say that they had gone on the 20th February 1957 to the Neemuch Printing Press to have their own respective printing work done. They got it done on that day, but did not see Exhibit P. 2 being printed there or respondent No. 1 being at that press. There is also the denial of respondent No. 1 from the witness-box about his visiting the Neemuch Printing Press at any time during the election.

28. Kasturchand R.W. 7 does not at all refer to the presence of Girwarsingh R.W. 11 at the Neemuch Printing Press on that day, when he visited it, which according to him was on the 20th February 1957. He signed an order for that printing work done at his instance. That document would have been the best evidence about the date of his visit to the press. No attempt was made to have that document before the Tribunal. He would have it believed that he was sitting all alone from 9-30 A.M. to 4 P.M. in the room where the treadle machine was. Yet, he could not state the size of the room though he had the boldness to deny the suggestion that the room is so small that it cannot accommodate any person except the operator.

29. The presence of Girwarsingh R.W. 11 at that time is not referred to by Kasturchand, though the former would have it believed that he was talking to Kasturchand during the time he was at the press. No questions were put either to Kanhaiyalal P.W. 3, or Chitarmal P.W. 5 or Shamlal P.W. 8 about the presence of these two persons at the press on that day. Girwarsingh R.W. 11 could remember the date of his visit to the Neemuch Printing Press which was nearly two years ago; yet, he could not remember the date of his visit to Ujjain at the last Kartik-Mela which had taken place only about two months before his examination. He would have it believed that he remained at the press all the time from about 1 P.M. to 4 P.M. just to see that the printing work which he wanted to be done was completed. Yet, he leaves without getting that printed matter. He could not remember what else besides the printing machine was in that room where he was sitting and where the composing department of the press was.

30. Respondent No. 1 has not been straightforward when making statements from the witness-box. He denied that he had at any time visited Neemuch Printing Press during the election. This press prints the news-sheet Sanket which was supporting the candidature of respondent No. 1. It is, therefore, hard to believe that during his visits to Neemuch Respondent No. 1 would not be going to the press. It is also hard to believe his statement that he never came to know of Exhibits P. 1 and P. 2 which are important from the point of view of his election campaign, till he received notice of this election petition, especially so when these pamphlets must have been widely distributed during the time respondent No. 1 was touring that locality. He was not even prepared to admit an undisputed fact that Ringnod and Dhodar are near each other. When pressed further he had to admit that he did not know the distance between the two places.

31. In paragraph 5 of his deposition he categorically denied his visiting to Cheetakheda and Ringnod during the entire election. In paragraph 22 of his deposition he admitted that he had attended a Harijan Sammelan at Cheetakheda. When put a specific question whether he would deny that this was held on the 21st February 1957 he stated that he would not be prepared to say that that statement was incorrect. Thus his statement that the Sammelan was held before the election campaign started appears to have been made just to get over the contradiction in his admission about having attended the Sammelan and his denial earlier of having never visited Cheetakheda.

32. Respondent No. 1 visited Jaora on the 21st February 1957. He was there on the 23rd February 1957 and 24th February 1957. Ringnod is only about five miles from Jaora (*vide* R.W. 3 Kundanmal), a prominent worker of the Congress party, Bhikamchand R.W. 2 lives at Ringnod. He was in charge of arrangements to be made on behalf of the Congress Party at the various polling booths in Ringnod Revenue Circle. It, therefore, appears unnatural that respondent No. 1 who was at Jaora on the 21st February 1957, 23rd February 1957 and 24th February 1957 would not be visiting Ringnod only five miles away. In view of these comments regarding the testimony of respondent No. 1 I do not think that his denial of his visiting to Neemuch Printing Press on the 20th February 1957 would be enough to negative the evidence of Kanhaiyalal P.W. 3, Chitarmal P.W. 5 and Shamlal P.W. 8 that he in fact was at the Neemuch Printing Press when Exhibit P. 2 was being printed there.

33. Santoshchandra R.W. 1, Mansingh R.W. 8 and Nandramdass R.W. 12 have been examined by the respondent No. 1 to show that on the 20th February 1957, when respondent No. 1 is said to be at the Neemuch Printing Press at the time of printing of Exhibit P. 2, he could not have been there as on that day he was at Bhanpura, Rampura, Kukdeswar and Manasa. The evidence of Santoshchandra does not make it improbable that after respondent No. 1 left him at Bamori on the 20th February 1957 at noon the latter could not have been at Neemuch by 2 P.M. on that day. The distance between Bamori and Neemuch is not such as would make it impossible for respondent No. 1 to be at Neemuch in the afternoon of that day. There is evidence that all the electioneering tour was done in a Jeep.

34. Mansingh R.W. 8 and Nandramdass R.W. 12 though they depose about identical events, namely respondent No. 1 reaching Rampura at 12-30 P.M., leaving there at 3-30 P.M. their accompanying him to Kukdeswar and being with him till 9 P.M. at Manasa, do not refer to each other, as being present with respondent No. 1. Mansingh R.W. 8 does not say that Nandramdass was with respondent No. 1 during the tour and Nandramdass does not say that Mansingh was with respondent No. 1. Moreover, respondent No. 1 himself has not said a word about his being with these two witnesses on the 20th February 1957, at the places mentioned above. I, therefore, find relying on the evidence of Kanhaiyalal P.W. 3, Chitarmal P.W. 5, and Shamlal P.W. 8 that respondent No. 1 was present at the Neemuch Printing Press when Exhibit P. 2 was being printed there, and that he left the press with bundles of copies of Exhibit P. 2.

35. I shall now consider the evidence about respondent No. 1 distributing this pamphlet P. 2 at Neemuch on the 20th February 1957. The three witnesses of the petitioner mentioned above, whom I have believed, say that on coming out of the Printing Press respondent No. 1 and Gulabchand Sethi got into a car, and proceeded towards Neemuch City and on the way distributed Exhibit P. 2. Gyarsilal P.W. 2, who is an independent witness, says that he saw certain persons going in a car which started from the Neemuch Printing Press and distributing Exhibit P. 2. Though he does not refer to respondent No. 1 specifically, his evidence corroborates the testimony of witnesses mentioned above and others to whom reference will be made later, that the persons going in that car from the Neemuch Printing Press distributed copies of Exhibit P. 2.

36. Uderam P.W. 4 has his shop opposite Neemuch Printing Press. Similarly, Kishanchand P.W. 7 had at the relevant time his chemist shop near the Neemuch Printing Press. They both corroborate the version that respondent No. 1 did distribute copies of Exhibit P. 2 when proceeding in a car from Neemuch Printing Press. I see no reason to disbelieve them. The mere fact that the petitioner and these witnesses belong to the same political party would not be enough by itself to discredit their testimony. They are persons who have their shops close to Neemuch Printing Press and could have witnessed the incident. The evidence of Gyarsilal P.W. 2, an independent witness, does establish that such an incident took place. I find that respondent No. 1 did distribute copies of Exhibit P. 2 at Neemuch on the 20th February 1957.



37. There now remains for consideration the other evidence about distribution and reading out of pamphlets Exhibits P. 1 and P. 2 by respondent No. 1 at other places. Laxminarayan Pandey P.W. 1, a medical practitioner of Jaora, says that two or three days before the 25th February 1957, which was the date of poll, he saw respondent No. 1 distributing copies of Exhibit P. 1 at Ringnod in the Bazar Chauk. I have already pointed out that the testimony of respondent No. 1 that he did not visit Ringnod during the election is not such as would inspire confidence. Bhikamchand R.W. 2 does support the statement of respondent No. 1 on that point, but for reasons already stated that statement is open to doubt. He says that Laxminarayan Pandey P.W. 1 did not visit Ringnod two or three days before the date of poll, and thus wanted to belie the statement of Laxminarayan about his visit to Ringnod. Bhikamchand admits that he used to be out of Ringnod every day till evening for election campaign, and hence, that statement of his does not negative the truth of what Laxminarayan Pandey said.

38. According to Mohansingh P.W. 6, he saw respondent No. 1 distributing copies of Exhibit P. 1 at Mandsaur on the 24th February 1957 at about 8 A.M. He himself was given a copy by respondent No. 1. The latter was at Jaora on the 23rd February 1957 and the 24th February 1957. Even the case of the petitioner is that the pamphlet Exhibit P. 2 was distributed by respondent No. 1 at Ringnod, which is near Jaora, on the 23rd February 1957. There is therefore no occasion to doubt the statement of Kundanmal R.W. 3 that the respondent No. 1 was at Jaora on the 23rd February 1957 and the 24th February 1957. It is, therefore, not safe to rely on the statement of Mohansingh that at 8 A.M. on the 24th February 1957 respondent No. 1 was at Mandsaur. Moreover, according to Kalyan R.W. 10, who was at Sitamau for election campaign of Congress Party till the 24th February 1957, he had seen Mohansingh at Sitamau on 24th February 1957 at about 8 A.M. and again at 9 A.M. Rajmal, R.W. 4, whose testimony cannot be challenged except on the ground that he is the father of the candidate of Congress Party for Assembly Seat from Sitamau constituency, which by itself would not be enough to discredit his testimony, also had seen Mohansingh at Sitamau on the 24th February 1957. I, therefore, do not place reliance on the evidence of Mohansingh about the respondent No. 1 distributing copies of Exhibit P. 1 at Mandsaur on the 24th February 1957.

39. Vimalkumar P.W. 9 is a sitting member of Madhya Pradesh Vidhan Sabha from the Garoth Constituency. He lives at Bhanpura and deposes about a public meeting convened by the Congress Party at Bhanpura two days before the poll, which took place on the 1st March 1957, and which respondent No. 1 had addressed, and at which he read out Exhibit P. 1. There is absolutely nothing in his cross-examination to discredit his testimony.

40. That there was a meeting at Bhanpura on the 27th February 1957 convened by the Congress Party is evident from the statement of respondent's witnesses Santoshchandra R.W. 1. He, however, says that at that meeting respondent No. 1 was not present, and that he did not see Vimalkumar at that meeting. Vimalkumar was watching the meeting from inside the shop of Nana Nai near the place of that meeting, and even according to Santoshchandra R.W. 1, a person sitting inside the shop would not be visible to person at the place of meeting. Thus, the fact that Santoshchandra did not see Vimalkumar when the former was presiding at the meeting does not belie the statement of the latter that he was present and watching the meeting from Nana Nai's shop.

41. Respondent No. 1, it is said, was not present at that meeting. That meeting and the meeting held the next day at Bhanpura were to be addressed by important personages who had been called from outside, especially to address these meetings. The Jhalawar Naresh had addressed the meeting on the 27th February 1957 and Ajitsingh from Delhi had addressed the meeting on the next day. It is very improbable, when such important persons were to address the election meetings, in favour of candidature of respondent No. 1 in his constituency, that he would not be present. Respondent No. 1 has denied having read out and distributed Exhibits P. 1 and P. 2 at Bhanpura. I have earlier commented on his testimony as not being straightforward. I therefore, believing Vimalkumar P.W. 9 find that respondent No. 1 did read out Exhibit P. 1 at meeting at Bhanpura on the 27th February 1957.

42. Virendrakumar P.W. 12, who had contested the Assembly seat from Jawad constituency, in which lies the village Singoli, says that at Singoli he saw respondent No. 1 addressing an election meeting and after the address copies of Exhibit P. 1 being distributed there. This according to him, was at 9 P.M. on the 20th February 1957. The presence of respondent No. 1 at Neemuch in the afternoon

of that day does not render the story of Virendrakumar improbable. Respondent No. 1 after being at Neemuch in the afternoon could have reached Singoli by 9 P.M. The mere fact that Vimalkumar belongs to a political party in opposition to the Congress Party to which respondent No. 1 belongs would not be enough to discredit his evidence. I believe him, and find that at Singoli the pamphlet P. 1 was distributed at a meeting addressed by respondent No. 1.

43. The result of the above discussion of evidence is that I find that it has been satisfactorily proved that respondent No. 1 distributed copies of Exhibit P. 2 at Neemuch, at Ringnod, that he distributed copies of Exhibit P. 1 at Singoli and that he read out Exhibit P. 1 at a public meeting at Bhanpura.

44. Issue No. 3.—The question now for consideration is whether the publishing of the pamphlets P. 1 and P. 2 by respondent No. 1 amounts to corrupt practice of undue influence. The heading of the pamphlets has already been reproduced earlier. A literal translation thereof would be as follows:—

Voters of Mandsaur Parliamentary Constituency, the Chittor of Sati Padmni, Maharana Pratap and Meera is cursing.

Barister Trivedi has deceived the public. The violation of oath of Kali Mai must be revenged (or the violator of oath of Kali Mai must be made to suffer).

45. It is unnecessary to set out the contents of the rest of the pamphlets. The petitioner does not rely on those contents as constituting undue influence. The gist of the contents is that the petitioner managed to obtain ticket of the Jan Sangh Party for contesting the election to the Lok Sabha from Chittor-Udaipur constituency by forming pacts with vested interests who preyed on the public, and though he had sworn by Kali-Mai to pay attention to the grievances of the constituency he having won the election clean forgot the electorate and thus had violated the oath of Kali-Mai, for which he should be made to suffer. There are also allegations about his not benefitting the constituency, and his entering into some sort of understanding with Shri R. B. Muity involving payment of monetary consideration for managing to obtain ticket to contest from the Mandsaur Parliamentary constituency. There is then eulogy of the Congress Party Candidate, the respondent No. 1, and an appeal to vote for him.

46. The petitioner submitted that the publication of the heading of these pamphlets by itself was enough to interfere with the free exercise of the electoral right inasmuch as it conveyed to the electors that the petitioner had been cursed by Sati Padmni, Meera, Maharana Pratap and Chhitor. These personages and Chhitor command reverence in that locality, and the impression created and intended to be created, it was submitted, was that the petitioner having been thus cursed was a most undesirable person, and whoever voted for him would also incur the curse of Sati Padmni, Meera and Maharana Pratap who were regarded in that area where the pamphlets were distributed as local deities.

47. Before dealing with these submissions I will refer to the decisions cited by the petitioner. *Abdul Rouf vs. Makhtar Ali* 2 E.L.R. 340 is a decision laying down the standard of proof required to establish corrupt practice. I have already stated earlier in para. 17 above what should be the standard of proof. *Inayatulla vs. Dewanchandra* A.I.R. 1959 Madhya Pradesh 58 is also another decision supporting that view.

48. In *Jaggiwandass Shetty vs. Sanjiwa Shetty* 3 E.L.R. 358 it was pointed out that corrupt intention is essential for establishing corrupt practice. The view that hope of spiritual benefit would also amount to undue influence did not find favour with the Tribunal deciding that case, and it was observed that when use of spiritual authority was made basis for allegation of corrupt practice of undue influence it was the proviso (a) (ii) to section 123(2) that would be attracted. Thus, in the view of that Tribunal there should be fear of spiritual displeasure and not hope of spiritual benefit in order to make out practice of undue influence where spiritual authority is said to have been brought into use.

49. *Shardulsingh vs. Hukamsingh*, 6 E.L.R. 316 is also to the same effect and it was pointed out therein that where influence is said to be by religious appeal, it should be shown that it was made to appear to the persons addressed that non-compliance would be considered to be irreligious or sinful. It was also pointed out that the proviso to section 123(2) of the Representation of People Act showed what kind of interference was contemplated to bring the case under the corrupt practice of undue influence. In *Gurnamsingh vs. Pratapsingh*, 7 E.L.R. 338 it was observed that statements invoking divine pleasure or spiritual benefit for those who vote in a particular way would not fall within section

123(2)(b). It was pointed out in *Jujharsingh vs. Bherolal*, 7 E.L.R. 457 that methods of inducement to amount to undue influence must be such as to leave no free will to the voter in exercise of his choice.

50. *Dr. K. N. Gairola vs. Gangadhar Maithani*, 8 E.L.R. 105 was a case where one of the candidates had given out that displeasure of local deities would be incurred by not voting in a particular way and that was held to amount to undue influence.

51. (1) *Bhikaji Keshav Jadhav vs. B. N. Bhani*, 10 E.L.R. 357, (2) *M. M. Manjuran vs. K. C. Abraham* 10 E.L.R. 376, (3) *Bhagwandatt vs. R. R. Gupta*, 11 E.L.R. 478, (4) *Sangapa vs. Shivmurthy Swami*, 13 E.L.R. 365, cited by the petitioner do not deal with undue influence except the case No. 2. The first deals with question of necessity for particulars. The second case deals with among other things, agency and also points out that a priest by advising voter to vote in a particular way would not be exercising undue influence. It is only threat or appeal to fear terror or superstition of those addressed that would amount to undue influence. The third case lays down that when evidence is adduced by both sides absence of particulars in the petition regarding corrupt practice would not be material and would not warrant dismissal of petition on that ground. The fourth decision only lays down that fresh instances of corrupt practice already alleged can be allowed to be introduced by way of amendment.

52. The gist of the decisions relating to corrupt practice of undue influence is that the appeal to the voters must be by such method as leaves no free will to them and that if allegation of undue influence is sought to be based on use of spiritual authority it is the proviso to section 123(2) which would be attracted.

53. It is in the light of these considerations that it has to be ascertained whether the publication of the pamphlets P. 1 and P. 2 by respondent No. 1, in the sense of his reading them out at public meetings and distributing them, amounts to undue influence. For that purpose the contents of the pamphlets have to be scrutinised. The heading of the pamphlets on which the petitioner relies to support his contention nowhere mentions that Sati Padmni, Meera or Maharana Pratap had cursed the petitioner. What the heading mentions is that Chhitor hallowed by being associated with those persons who lived there in the past was cursing the petitioner. It is only a rhetoric way of putting that the petitioner had incurred the wrath of the public of Chhitor.

54. Some of the witnesses for the petitioner have said that by that sentence they understood that Sati Padmni, Meera, and Maharana Pratap had inflicted a curse on the petitioner. Accepting that that allegation could be understood in that way by the illiterate masses and villagers among whom the pamphlets were distributed and read out, I fail to see how that would amount to corrupt practice of undue influence, since there was no insinuation that persons helping the petitioner would also be subject to the wrath of Sati Padmni, Meera and Maharana Pratap, who are revered in that locality almost as local deities. The statement that petitioner was a man cursed by them or had incurred their wrath cannot by any stretch of imagination be understood to mean that any person who would vote for him would also meet the fate of the petitioner. *Virendrakumar P.W. 12* and the petitioner *U. M. Trivedi P.W. 14* have said that many voters whom they contacted had understood that statement in the pamphlet in that particular way. Not a single such person has been examined. Moreover, the petitioner himself had not initially when filing the petition thought that that statement in the pamphlets was being understood in that way. He had stated in para. 14 of the petition that the publication of the pamphlet amounted to undue influence because thereby respondent No. 1 attempted to induce the electors to believe that the petitioner (not the voter) would be rendered an object of spiritual censure.

55. The statement in the pamphlet "*Kali-Mai ke saugandh ka badla jarur lena*" was relied upon as constituting undue influence. It was submitted by the petitioner that the suggestion intended to be conveyed by that appeal was that the petitioner having violated the oath of Kali Mai should be dealt with by not voting for him and that a person who did not so punish the petitioner (by not voting for him) would be displeasing Kali Mai or showing disrespect or indifference to Kali Mai. I am unable to agree that that was the suggestion or that any person could understand that appeal to mean that if he voted for the petitioner he would be failing in his duty to Kali Mai. It would not be permissible to read into the contents of the pamphlets something which was not there and which was not even hinted at.

56. The petitioner then argued that there would be undue influence in the general sense if anything was done to interfere with the free exercise of electoral right, and that the proviso to section 123(2) related to special kind of undue

influence. It was argued that even if no threat of divine displeasure was conveyed by what was stated in the pamphlets P. 1 and P. 2, all the same, if the publishing of the contents left no free will to the voter the publication by respondent No. 1 would amount to undue influence. The argument, as I understand it, seems to be that if the pamphlets conveyed that the petitioner was such a person who had been cursed by or had incurred the wrath of Sati Padmni, Maharana Pratap and Meera (who are revered by the general mass of people in that area), the voters would consider themselves duty bound not to vote for such a person and hence would be left with no free will in exercise of their choice I am afraid that interpreting the contents of the pamphlets in that way would be reading into them something that was not there. All that the pamphlets contain is that the petitioner by his acts and omissions had incurred the wrath of the public of Chhitor. I would, therefore, find that the publishing of the pamphlets P. 1 and P. 2 does not amount to undue influence. I find issue No. 3 in the negative.

57. It was argued by the petitioner that even if his allegation about corrupt practice under section 123(2) Representation of People Act being committed were held as not proved, the election of respondent No. 1 was liable to be declared void because he had committed the corrupt practice under section 123(4) of the Act. He relied on *Abdul Jalil vs. Ratindranath A.I.R. 1958 Assam 51* for his submission that even though no issue had been framed regarding corrupt practice under section 123(4) being committed, if the evidence disclosed that such a corrupt practice had been committed then there was nothing in the way of recording a finding to that effect and declaring election of respondent No. 1 void on that account.

58. In the Assam case one of the grounds on which the petitioner had challenged the election was commission of corrupt practice under section 123(4) by publishing certain matter, namely that leftists (who had formed united front to oppose the Congress Party candidate) do not admit the independence of India, and if they are elected the Muslims would be driven out of Bharat and will create feuds with neighbouring countries. This matter was read out by the respondent at certain meetings. It was held that such publication did not amount to corrupt practice under section 123(4), and that as it amounted to corrupt practice under section 123(2) the tribunal was justified in setting aside his election on the ground of commission of corrupt practice of undue influence (which had not been alleged in the petition) as the Tribunal had not allowed evidence to be led on that particular head of corrupt practice which had not been alleged and that the conclusion of the Tribunal could be based on the evidence that was already there and adduced in support of a corrupt practice under section 123(4). In that case the matter published by itself was held to amount to a threat of injury to elector.

59. The converse however, that when corrupt practice under section 123(2) is alleged finding of commission of corrupt practice under section 123(4) would be justified, on the evidence adduced in support of corrupt practice of undue influence would not hold good. In establishing corrupt practice under section 123(4) the petitioner has not only to prove that the statement published relating to his personal character was false but has further prove that the respondent believe it to be false or did not believe it to be true. In the present case there has been no enquiry whether certain statements in Exhibits P.1 and P.2 relating to personal character of petitioner were false, and whether they were believed to be false or not believed to be true by the respondent No. 1. He had no opportunity to meet any such case.

60. The decision of the Madhya Pradesh High Court in *Maganlal Bagdi Vs. Hari Vishnu Kamath* First appeal No. 5 of 1958 dated 25th April 1958 was relied on by the petitioner for his submission that the evidence on record was enough to establish that the contents of Exhibits P.1 and P.2 could not have been believed to be true by respondent No. 1. It was submitted that he had made no enquiry whether the persons purporting to have signed these pamphlets had really issued them, and as such he could not have believed that they did issue them. In the decision relied on by the petitioner the falsity of statement that Shrimati Sucheta Kriplani advised the voters not to vote for the respondent was undisputed and it was also found that it could not have been believed to be true by the respondent since to his knowledge Shrimati Sucheta Kriplani had not issued any such appeal. There is no material on record to show that the persons purporting to have signed P.1 and P.2 had not issued these pamphlets, or that respondent No. 1 knew that they had not signed them. The mere fact that he did not contact them to ascertain if they had issued these pamphlets would not be enough to hold that he knew that

they had not issued such an appeal. I am, therefore, unable to accept the contention of the petitioner that on the material on record finding of corrupt practice under section 123(4) being committed by respondent No. 1 should be recorded even though no enquiry was made about commission of such corrupt practice.

61. *Issues No. 9 and 10.*—Since the corrupt practice of undue influence has not been established, and since no other allegations that were put in issue on the basis of which election of respondent No. 1 was sought to be declared to be void have been established, I answer issue No. 9 in the negative. It follows that issue No. 10 has to be answered in the negative. I answer it accordingly.

62. The election petition is dismissed with costs. The petitioner shall pay the costs of respondent No. 1 except the costs of witnesses of respondent No. 1 (which shall be borne by respondent No. 1) and shall bear his own costs. Counsels fee will be Rs 300.

*The 3rd March, 1959.*

C. B. KEKRE,

Member Election Tribunal, Ujjain (M.P.).

[No. 82/62/57/6219.]

*New Delhi, the 7th April 1959*

**S.O. 797.**—Whereas the election of Dr. Balkrishna Vishwanath Keskar as a member of the House of the People from the Musafirkhana Constituency, has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951 (43 of 1951), by Haji Abdul Wahid, son of Hafiz Abdul Ghani, resident of Mohalla Khairabad, District Sultanpur, Uttar Pradesh;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition, dismissed the said election petition by an order dated the 26th September, 1957, published in the Gazette of India, Extraordinary, Part II, Section 3, dated the 28th October, 1957;

And whereas the High Court of Judicature at Allahabad, on the writ petition No. 1044 of 1958 filed by Haji Abdul Wahid, quashed the said order of the Election Tribunal by its order dated the 19th August, 1958 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 13th October, 1958, and remanded the said petition for further trial;

And whereas the said Election Tribunal after further trial of the petition has, in pursuance of the provisions of section 103 of the said Act, sent a copy of its order in the said petition to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal.

IN THE COURT OF MEMBER, ELECTION TRIBUNAL, UTTAR PRADESH

ALLAHABAD

Present: Sri K. K. Banerji

ELECTION PETITION No. 451 OF 1957.

Haji Abdul Wahid son of Hafiz Abdul Ghani, resident of Mohalla Khairabad, district Sultanpur, U.P.—*Petitioner.*

*Versus*

1. Dr. Balkrishna Vishwanath Keskar, Minister for Information and Broadcasting, India, New Delhi.
2. Sri Vidyadhar Bajpal son of Sri Chandra Dutt Bajpal, resident of Mohalla Khairabad, district Sultanpur, Uttar Pradesh—*Respondent.*

#### JUDGMENT

This is an Election Petition filed under section 81 of the Representation of the People Act, 1951, by the Petitioner, Haji Abdul Wahid, hereinafter to be referred as the Petitioner, against Dr. Balkrishna Vishwanath Keskar, Respondent

No. 1, hereinafter to be referred as Respondent, and Sri Vidya Dhar Bajpai, Respondent No. 2, who has not opposed the Petition and has been examined by the Petitioner as his witness, (P.W. 25).

The Petitioner's case is that the President of Indian Union issued a writ on the 15th of January, 1957, directing the electorates to elect their representatives to the Lok Sabha before 31st of March, 1957. (It appears there is a mistake in the date given in the petition. On behalf of the Respondent a copy of the gazette of India extraordinary, Part II, has been filed, and from the Notification it appears that the President of India was pleased to call upon all Parliamentary Constituencies in the various States, including Uttar Pradesh, to elect members according to the provisions of section 14 of the Representation of the People Act. This Notification is dated the 19th of January, 1957. It appears, therefore, that the President of India called upon the Parliamentary constituencies to elect members for the House of the People on the 19th of January, 1957. The discrepancy in the dates, however, is not material.) The last date for filing the nomination papers was 29th of January, 1957, and the Petitioner and the Respondents Nos. 1 and 2 filed their respective nomination papers for a seat in the House of the People from the Musafirkhana Parliamentary constituency, within the District of Sultanpur. The nomination papers of all the three candidates were found valid on scrutiny but, later, Respondent No. 2, Sri Vidya Dhar Bajpai, withdrew from the contest and there remained only two candidates from the Musafirkhana constituency, one the petitioner, whose symbol was an 'Elephant', and the Respondent, whose symbol was 'a pair of bullocks with a yoke on'. The Petitioner contested the election as an Independent candidate and the Respondent as a member of the Congress party.

The polls in this Musafirkhana Parliamentary constituency took place on the 3rd, 6th and 9th of March, 1957, and the counting of the votes was done on the 18th of March, 1957. As a result of the counting the Respondent was declared to be duly elected by the Returning Officer, on the 20th of March, 1957.

The details of the grounds on which the Petitioner seeks a declaration, that the election was void and that he should be declared duly elected in place of the Respondent, are given in various paragraphs and sub-paragraphs of the Petition, beginning from paragraph 7 to paragraph 12. It may be stated here that the Petition, as originally presented, suffered from lack of essential details but these were supplied later on by leave of this Tribunal when an application under section 90, sub-section (5) was filed by the Petitioner with a prayer that he should be allowed to give particulars of the corrupt practices as alleged in his Petition and also to amend or amplify the same. It may further be stated that the classification of the instances of corrupt practices has not been artistically drawn up as several instances have been found to be overlapping and some of the paragraphs numbered incorrectly on account of wrong use of either the capital or the small letters of the alphabet. However, in spite of these defects, which in my opinion are not very material, the Petition presents several identifiable instances of corrupt practices said to have been committed by the Respondent.

It is alleged in paragraph 7 that the Respondent exploited his position as a Minister of the Indian Union and at his instance the District Magistrate of Sultanpur and his subordinates arranged election meetings on his behalf and used their official influence to induce the electors to cast their votes in his favour. In paragraph 7(A), details of these election meetings which were alleged to have been arranged by the District Magistrate and his subordinates have been given showing that on the 15th of January, 1957, three meetings were held, one at Sultanpur, one in the Higher Secondary School in Bharkhare and one at Kamtaganj. Five such meetings were also held on the 16th of January, 1957, at Amethi, Thaura, Shahgarh, Gauriganj and Babu Ganj.

In paragraph 8 of the Petition it is alleged that on the 15th and 16th of January, 1957, the Respondent toured his constituency in a State car bearing the Ashoka, Chakra, the emblem of the Government of India, and wherever he went the police presented him a guard of honour and the police and other Government officials were in constant attendance which gave the impression to the electorate that the Government was backing the Respondent and if any one voted against him he would thereby incur Government's displeasure. Paragraph 8(A) is a part repetition of the allegations made in paragraph 7 and also paragraph 8, adding that during the tour the Respondent was accompanied by the District Magistrate and the Superintendent of Police. A few particulars were given under this paragraph 8(A), and the holding of meetings at Sultanpur, Bharkhare, Kamtaganj, Amethi, Shahgarh, Gauriganj and Babu Ganj, on the 15th and 16th of January, 1957, was reiterated.

In paragraph 11(a) it has been alleged that one Kunwar Rananjaya Singh of Amethi who had succeeded in getting a seat in the Legislative Assembly in the election of 1952, was won over by the Respondent in the 1957 election, by holding out a promise to him, that he, the Respondent, would get him nominated as a member of the Uttar Pradesh Legislative Council if he became his active supporter. As a result of this reward offered to Kunwar Rananjaya Singh, it is said, the latter did not stand in the election and held public meetings in support of the Respondent's candidature, at several places, stating that the Petitioner carried on the trade in animal bones, including the bones of cows, which offended the sentiment of the Hindus, and that if elected the Petitioner would leave no stone unturned to get cow-slaughter re-started, for which any Hindu voting for the Petitioner would render himself an object of divine displeasure and spiritual censure. The Respondent is also said to have addressed the same meetings in the same terms and Kunwar Rananjaya Singh, further, got a notice, Exhibit 1, printed, published and distributed amongst the electorate. It is also alleged that one Sri Rudra Pal Misra also distributed a notice, Exhibit 2, amongst the electors. In paragraph 11(a)-(i) the particulars of the allegations made in paragraph 11(a) have been supplied in as-much as the places where the meetings were held have been named. The meeting at Amethi on the 16th of January, 1957, is said to have been addressed by Kunwar Rananjaya Singh and others, and the meetings at other places on the 15th of January, 1957, 16th of January, 1957 and 8th of February, 1957, are said to have been addressed by the Respondent No. 1. The meetings at Amethi and Lambua Bazaars are said to have been addressed by some other persons as well with the consent of the Respondent. In paragraph 11(a)-(ii) reference has again been made of Exhibits 1 and 2 having been distributed by Kunwar Rananjaya Singh and Sri Rudra Pal Singh, respectively, throughout the constituency.

The corrupt practices, as mentioned in paragraph 11(b), is said to have been committed by Sri Ram Kishore Shastri, private secretary to Kunwar Rananjaya Singh, who sent for publication in the Sanatan, a local newspaper, the notice, Exhibit 1, and also a statement that the Petitioner was spending money like water and purchasing votes. This corrupt practice is said to have been committed on the 19th of February, 1957. In paragraph 11(c), reference was again made of Exhibits 1 and 2 and it is alleged that Kunwar Rananjaya Singh told the electorate in various public meetings that the Petitioner was a Pakistani agent and if he was returned he would vote for Kashmir's accession to Pakistan. As a result of the exhortations made by Kunwar Rananjaya Singh and also by the Respondent himself Vijai Pal Pande and Shrimati Savitri Devi, who were candidates from the Assembly constituencies of Amethi, and Lambua, respectively, withdrew their support of the Petitioner which they had at first promised. In paragraph 11(d) it is said that systematic appeal to the electorate to vote for the Respondent was made on the grounds of caste and community, and one Sri Jagga Dass, a Harijan appealed to the Harijan voters saying that they should never support the Petitioner who was a Muslim. In paragraph 11(d)-(i) it has been also alleged that Respondent no. 1, at the meetings detailed in sub-paragraph 11(a)-(i) addressed the electorate to refrain from voting for the Petitioner on the ground of caste and community and that his supporters also advanced similar appeals to the electorate on the same grounds, with the consent of the Respondent. In paragraph 11(e)-(i) the use of the national flag by the Respondent has again been made with the particulars that it was so used from the 15th of January, 1957 to 16th of January, 1957, from 26th of January, 1957, to 6th of February, 1957, and from 15th of February, 1957 to 9th of March, 1957. Paragraph 11(f) is another repetition about the notices Exhibits 1 and 2 alleging that such publications and distributions amounted to a corrupt practice as defined in section 123 sub-section (4) of the Representation of the People Act.

Paragraph 11(g) and sub-paragraph 11(g)-(i) refers to a distinct category of corrupt practices, namely, hiring of ekkas and rickshaws by the Respondent and one Banke Behari Vaid on the 8th of March, 1957. Subsequently it is said, many voters were brought to the polling stations of Lambua and Ramganj on the 9th of March, 1957. Names of a few other persons have also been given as persons who had engaged such conveyances on behalf of the Respondent with his consent. In paragraph 11(h), 11(h)-(i) and 11(h)(i)(1), it has been stated that one Sri Deo Kali Din Sharma, President of the District Board, Miranpur, used the District Board's station-wagon in the election campaign of the Respondent and on 5th February 1957 threatened the teachers with a transfer away from their houses, as a consequence of not voting for the Respondent. It is also alleged that Sri Deo Kali Din held out promises to these teachers to make suitable transfers to their advantage if they voted for the Respondent.

In paragraph 11(j), which includes several sub-paragraphs (i) to (vii), promises of various kinds are said to have been made by the Respondent and his workers. In sub-paragraph (iv) it is stated that a meeting was held at Pakhrauli on 4th of March, 1957, which was addressed by the Respondent, in this way, that he had restored the dismantled Lucknow-Jaunpur railway line and had arranged to make Pakhrauli a Flag station but if the people of the locality did not vote in his favour he would see that the scheme was finally dropped. In sub-paragraph (vii) it has been said that Sri Banke Behari, a paid Bhoodan worker, threatened the electorate stating that if the people of the locality voted for the Petitioner and against the Respondent the lands given to them by the Bhoodan Samiti would be taken back. In paragraph 11(k), sub-paragraph (ii) reference has been made again of Jagga Dass and of several other Harijans who addressed meetings at Abhayya Kalan and other places on 4th and 8th of March, 1957, stating that if the Harijan community did not vote for the Respondent, Jagga Dass, a leader of the Harijans, would lose his job and the educational and other facilities granted to the Harijans by the Government would be withdrawn. Paragraph 11(k), sub-paragraph (i) refers about a threat in connection with a proposal of a pucca road, and sub-paragraph (iii) refers to certain gratifications estimable in money. In paragraph 11(l) it has again been alleged that the Respondent and his workers took the assistance of some Government Officers in furtherance of the election and that Sri Deo Kali Din Sharma on 1st February 1957, when touring the Parliamentary constituency in the District Board's station-wagon, order the District Board school teachers at several places to close their schools after the mid-day interval in order to go out for canvassing in favour of the Respondent. Paragraph 11(m) refers to the use of a postage stamp by the Government of India and in paragraph 11(n) it is said that the Respondent No. 1 through his agents, workers and canvassers got a man called Pahari Gujar, an active worker of the Petitioner, killed or abducted. It is alleged that undue influence was at first exercised upon him to induce him to refrain from working for the Petitioner but as he refused to yield to the temptations he was either abducted or killed on the 17th of February, 1957. His brother submitted an application before the Superintendent of Police, Sultanpur, but the latter, under the influence of the Respondent, took no steps on the same.

The return of election expenses by Respondent No. 1 has been challenged in paragraph 11(o) and, in paragraph 11(p), it is said that the Respondent took the assistance of another Government servant, namely, his own private secretary, Sri Ghor Pade who was in charge of his election. Paragraph 11(q) refers to an alleged objectionable slogan as printed on a poster, which, admittedly, was distributed on behalf of the Respondent. In paragraph 12, it has been said that the Respondent had taken recourse to fraud and intentional misrepresentations, that he had committed corrupt practices and electoral offences as set forth in the various paragraphs and that the result of the election has been materially affected, as, otherwise, the Petitioner would have obtained a majority of valid votes.

The Respondent has filed his written statement, generally and specifically denying all the allegations of corrupt practices made against him, his workers and his supporters. On these allegations and their denial the following issues have been framed:—

- (1) Whether the Respondent No. 1 enlisted the support of the District Magistrate and the Government Officers mentioned in paragraphs 7 and 7A in arranging the election meetings of the 15th and 16th January, 1957, mentioned in paragraphs 7 and 7A of the petition, and was any corrupt practice committed by the Respondent no. 1?
- (2) Whether the Respondent no. 1 used the Ashoka Chakra and the State flag during the tour of his constituency on the 15th and 16th January, 1957, and whether any Government officer assisted in arranging meetings, election campaign and in propagandas as alleged in paragraphs 8 and 8A of the petition, and whether any corrupt practice was committed by the Respondent no. 1?
- (3) Whether the allegations contained in paragraphs 7 and 8 of the petition amount to obtaining or procuring assistance in furtherance of the prospects of the election of the Respondent no. 1 from persons in the service of the Government as defined in section 123(7) of the Representation of People Act?



- (4) Whether the Respondent no. 1 has been guilty of any fraud, intentional misrepresentation, corrupt practices and any other electoral offences alleged in paragraph 10 of the petition, and was it on account of such practices that he secured the majority of votes and won, the election?
- (5) Whether the allegations contained in paragraphs 11(a), 11(a)(i) and 11(a)(ii) of the Petition are true and whether any corrupt practice was committed by the Respondent No. 1 and his agents, canvassers and supporters as to invalidate his election?
- (6) Whether the allegations contained in paragraphs 11(b) and 11(b)(i) are correct and was any corrupt practice committed as alleged in these paragraphs by the Respondent No. 1 within the meaning of section 123(1) of the Representation of People Act?
- (7) Whether the allegations contained in paragraph 11(c) of the Petition are correct and was any corrupt practice committed as alleged in this paragraph within the meaning of section 123(3) of the Representation of the People Act?
- (8) Whether the allegations contained in paragraphs 11(d) and 11(d)(i) of the petition are correct and was the corrupt practice of making a systematic appeal to vote for Respondent No. 1 and to refrain from voting for the Petitioner on the ground of caste or community committed by the Respondent No. 1, and his active workers, canvassers and supporters?
- (9) Whether the Respondent No. 1 is guilty of corrupt practice of using the National Flag or any national emblem in furtherance of the prospects of his election as defined in section 123(3) of the Representation of People Act?
- (10) Whether the alleged publication of the notice referred to in paragraph 11(a) of the petition constitutes also the corrupt practice as alleged in paragraph 11(f) of the petition within the meaning of section 123(4) of the Representation of People Act?
- (11) Whether the allegations contained in paragraphs 11(g) and 11(g)(i) of the petition are correct and was any corrupt practice committed within the meaning of section 123(5) of the Representation of People Act?
- (12) Whether the allegations contained in paragraph 11(h) of the petition are correct and was any corrupt practice committed as defined in section 123(2) of the Representation of People Act?
- (13) Whether the allegations contained in paragraphs 11(i) and 11(i)(i) of the Petition are correct and was any corrupt practice as defined in section 123(1) of the Representation of People Act committed?
- (14) Whether the allegations contained in paragraph 11(j) of the Petition are correct and was any corrupt practice within the meaning of section 123(1) and section 123(2) of the Representation of People Act committed?
- (15) Whether the allegations contained in paragraph 11(k) of the petition are correct and was any corrupt practice as defined in section 123(2) of the Representation of People Act committed?
- (16) Whether the allegations contained in paragraph 11(l) of the petition are correct and was any corrupt practice as defined in section 123(7) of the Representation of People Act committed?
- (17) Whether the allegations contained in paragraph 11(m) of the petition are correct and was any undue influence and inducement exercised on the electors for the purpose of procuring votes in favour of Respondent no. 1?
- (18) Whether the allegations contained in paragraph 11 (n) of the Petition are correct and was the validity of the election affected?
- (19) Whether the allegations contained in paragraph 11(o) of the Petition are correct and is the election of the Respondent no. 1. therefore invalid?

- (20) Whether the allegations contained in paragraph 11(p) of the Petition are correct and is the validity of the election of the Respondent no. 1. affected?
- (21) Whether the allegations contained in paragraph 11(q) of the petition are correct and has any corrupt practice as alleged been committed?
- (22) Whether as alleged in paragraph 12 of the petition the result of the election has been materially affected?
- (23) To what relief, if any, the petitioner is entitled?

Both parties have led oral and documentary evidence. The Petitioner has examined 25 witnesses but has not, himself, come to the witness box. On behalf of the Respondent 26 witnesses have been examined including the Respondent, himself, who is R.W. 26.

*Issues 1, 2, 3, and 9, (Issues 1, second part of issue No. 2 and issue No. 3):—*

The issues upon which the Petitioner has drawn my attention with emphasis are Issues 1, 2, 3, and 9. These issues refer to paragraphs 7, 7A, 8, 8A and 9. Broadly speaking, they refer to the arrangements made by Government Officers of meetings at several places to help the Respondent in his election, and to the use of the National Flag by the Respondent on the very same dates when the meetings were held, namely, on the 15th and 16th of January, 1957. As issue no. 2 refers to two different sets of facts it would be better if issue no. 1 in whole and the second part of issue no. 2 are taken up together with issue no. 3 which is the legal consequence following the proof of facts in connection with issue no. 1 and second part of issue no. 2. The first part of issue no. 2 which relates to the use of the National Flag should be dealt with along with issue no. 9, which, to, is with respect to the use of the National Flag or of National emblem in furtherance of the prospects of a candidate as defined in section 123(3) of the Representation of the People Act. The main ground adopted on behalf of the Petitioner is that the Respondent was holding himself out as a candidate from before the 20th of January, 1957, the date on which he purchased the nomination paper from the Sultanpur treasury. I may refer here again that the last date for filing nomination papers was 29th of January, 1957. According to the Respondent (R. W. 26), he decided to contest for a seat in the Parliament in the election of 1957 when he got a ticket from the Central Congress Parliamentary Board for a seat in the Parliament from the Musafirkhana constituency, either on the 22nd or 23rd of January, 1957, and then filed his nomination paper on the 29th of January, 1957, for which he had come either on 25th or 26th of January, 1957, to Sultanpur. According to the Respondent, therefore, there was no election work done by him or by his party prior to 25th or 26th of January, 1957. On the other hand, the Petitioner has tried to prove by oral and documentary evidence that the Respondent was holding himself out at least from 9th of January, 1957, when he purchased a copy of the electoral roll. According to the Petitioner, the Respondent was holding himself out as a candidate with the election in prospect. The learned counsel on behalf of the Petitioner has argued on the strength of the definition of the word "candidate", that the Respondent should be deemed to have been a candidate when, with the election in prospect, he began holding himself out as a prospective candidate. It follows from the definition given in section 79 sub-section (1) clause (b) that a 'candidate' is not necessarily a person who has been or claims to have been duly nominated as a candidate in any particular election. The latter part of the definition includes a person to be a candidate if he purported to hold himself out as a prospective candidate from a particular time, with the election in prospect. Accordingly, if it is proved by evidence, oral, documentary or circumstantial, that the Respondent had been holding himself out as a prospective candidate prior to his filing of the nomination paper on the 29th of January, 1957, he will be deemed to be a candidate within the meaning of section 79(1) (b). Exhibits 12 series, are the nomination papers filed by the Respondent, including true copies of an extract from the list of voters prepared in 1956. These show that the true copies were obtained on 9th of January, 1957, and on this it has been argued by the learned counsel for the Petitioner that it is from this time that the Respondent had decided to contest the election from some constituency other than the one in which he was entered as a voter. The fact that on the eve of the election in a Sultanpur constituency he had an official programme for a visit to that place on the 15th and 16th of January, 1957, will prove, it is contended, that this so-called official programme was nothing but a camouflage and that the real purpose of the visit of the Respondent in Sultanpur district on those two dates was to carry on his election propaganda through the help of the Government Officers. It has

been urged that the programme (Exhibit 6) of the 15th and 16th of January, 1957, was given an official shape for financial reasons, i.e., to get the expenses defrayed from the public exchequer and to receive the assistance of the numerous Government Officers. Barring these true copies of the extracts from the list of voters there is no documentary evidence to support the contention made on behalf of the Petitioner. I am afraid these extracts are practically of no importance in judging whether the Respondent had been holding out as a prospective candidate on the two dates, namely, 15th and 16th of January, 1957. The other documentary evidence relied upon by the learned counsel for the Petitioner is based on the two items in the return of the election expenses (Exhibit 23) submitted by the Respondent. An item of the 20th of January, 1957, shows that a jeep car was purchased on that date for Rs. 5,000 and a nomination form was purchased from Sultanpur Treasury on the very same date. This date is several days later to the visit of the Respondent to Sultanpur and cannot prove the fact that prior to this date and especially on the 15th and 16th of January, 1957, he, the Respondent, was holding himself out as a prospective candidate. These items may affect the evidence of the Respondent that there was no election work done by him prior to 25th or 26th of January, 1957, which were the dates of his visit to Sultanpur for the purpose of filing the nomination papers. This may also affect his evidence that he decided to contest for a seat in the Parliament only when he was informed by the Central Congress Parliamentary Board that they had selected him as a candidate from the Sultanpur-Musafirkhana constituency. But, the proximity of the dates is such which does not oust the possibility of a slight error due to lapse of memory. It is possible that by 20th of January, 1957, the Respondent was in a position to anticipate the choice by the Central Congress Parliamentary Board and decided to stand for a seat in the Parliament from the Musafirkhana constituency. The fact that on the 20th of January, 1957, he purchased a nomination form from the Sultanpur treasury, and the facts resting on the two items of expenditure might belie a minor part of the evidence of the Respondent but they cannot, by any means, prove independently that the Respondent had been holding out as a prospective candidate on the 15th and 16th of January, 1957. Reference has been made, on behalf of the Petitioner, of Exhibits 17 and 17/1, the Travelling Allowance Bills of the Respondent, to show that he was at Lucknow on the 9th of January, 1957, and also of Exhibit 18, which is a news-item in the Leader, dated the 15th of January, 1957, to show that a meeting had been convened at Lucknow, but, I do not understand how these exhibits can be of any help to the Petitioner.

The sheet-anchor regarding this contention of the Petitioner is the programme of the Respondent in Sultanpur on the 15th and 16th of January, 1957, which is, Appendix 1 (Exhibit 6). The programme shows in detail the arrival and departure of the Respondent at various places and also what he did there. On the 15th of January, 1957, he arrived at the P. W. D. Inspection House, at Sultanpur, from Lucknow, by car, at 10:30 A.M. and departed for Bharkhare at 1 P.M. There, he presided over a school function and also held a Workers' Meeting. At 3 P.M., on the same day, he visited Kamtaganj in connection with the inauguration of Kamtaganj Panchayatghar and also attended a Workers' Meeting. On the 16th of January, 1957, he attended three Workers' Meetings, at Amethi, Thaura, and at Gauriganj and departed for Lucknow at 5 P.M. by car. This programme was drawn up by Sri H. D. Pradhan, the then District Magistrate of Sultanpur, on the directions received from the Respondent and copies of the same were forwarded to the Superintendent of Police and also to other Government Officers. A copy of the programme was also sent to the President, District Congress Committee, for making necessary arrangements at the places mentioned in the programme for the Workers' Meetings. There can be no doubt that some of the Government Officers, such as, the District Planning Officer and some Tahsildars were asked to make arrangements but they had nothing to do with the Workers' Meetings. The District Planning Officer was directed to make necessary arrangements for inauguration of the Kamtaganj Panchayat Ghar, for inspection of Gauriganj N.E.S. Block and for a public meeting. Similarly, the Tahsildars of Kadi Pur and Amethi were asked to make arrangements at Bharkhare and Shahgarh. For Workers' Meetings only the President, District Congress Committee was directed to make necessary arrangements at the places mentioned in the programme. It appears, therefore, that this programme had nothing to do with the matter of election, unless at these Workers' Meetings the Respondent had talked about the coming election and had done something in furtherance of his election campaign. It is clear that the Government Officers had nothing to do with these Workers' Meetings and Sri A.C. Ambuani (R.W. 14) the then Superintendent of Police of Sultanpur district has pledged his oath that these meetings had nothing to do with the Government officers and no Government Officers including, himself, and the District Magistrate, were present then. There

is no reason why R. W. 14 should be disbelieved when there is total lack of evidence that the Government Officers were present in such meetings. The Respondent has stated in his evidence and is supported by some of his witnesses that these Workers' Meetings, referred to in Appendix I, had nothing to do with the election work. He has said in cross-examination that these Workers' Meetings were not assisted by the Government Officers and no party matters were discussed in any of such meetings. He has further stated that he did not ask in the Workers' Meetings anything in connection with what the workers should do in the coming election and there was no reference to the coming election at all. Attempt has been made by and on behalf of the Respondent that the word 'workers' included congress workers as well as village workers, who ventilated their grievances about matters concerning the villages and the local areas. In the written statement it has been said that the programme detailed in Appendix I was intended to serve as information to the public regarding the various engagements, both official and private, of the Respondent, and that it was only in connection with the official engagements that some duties were assigned to the officials concerned. It is true that the Respondent in his cross-examination stated that the workers at these Workers' Meetings included those other than congress workers, although, in the written statement, it was admitted that these were congress workers' meetings, but, this difference has no particular significance in the determination of the issue in total absence of any evidence on behalf of the Petitioner that in these meetings something in relation to election was done. Statements made by the Respondent, which may or may not be true, or, which may be an improvement on his written-statement cannot fill up the gaps or overcome the weakness in the Petitioner's case. A discrepant statement about the actual date on which he decided to fight the election and an attempt to explain away a particular type of meeting do not necessarily lead to the inference that the Respondent was holding himself out as a prospective candidate, on the 15th and 16th of January, 1957, in absence of proper and trustworthy evidence.

There is no evidence on record to show that there was any overt act by the Respondent prior to 15th of January, 1957, which amounted to representing to the whole electorate or to a part of it that he was going to take part in the election. It was incumbent on the Petitioner to prove that some overt act had been done by or on behalf of the Respondent which was to the knowledge of the electorate in that constituency. By purchasing a copy of an electoral roll, the Respondent might have given an inclination of his contemplation to fight out an election in Uttar Pradesh but that was limited only to the persons from whom a copy of the electoral roll was taken. The electorate in the constituency of the Sultanpur district or of other Districts in Uttar Pradesh had little chance to know from this act that the Respondent had made up his mind to fight the election, either in Sultanpur or in any other District within this State. The obtaining of such a copy of electoral roll can never be held as a definite expression of an intention to hold out as a candidate.

Conscious of this hiatus in the Petitioner's case, the learned counsel for the Petitioner has urged that these exhibits, by themselves, although not necessarily indicating the fact of the Respondent's holding out as a prospective candidate, corroborate the statements of the Petitioner's witnesses who have deposed that at several meetings, of which there is a reference in the programme, the Respondent exhorted the people collected there to vote for him and not to vote for the Petitioner for certain reasons. There can hardly be any doubt that if the Respondent, while addressing the meetings at several places, on the 15th and 16th of January, 1957, referred to the election and asked the people to vote for him and not to vote for the Petitioner, the Respondent was unequivocally holding himself out as a prospective candidate. I would rather go so far as to find that the Respondent will be held to have been holding himself out as a candidate, if in these meetings he spoke about any matter having a direct or indirect relationship with the coming election and he will be within the mischief of the law even if he had not referred to the Petitioner.

It is, therefore, necessary to scan the evidence of the Petitioner, on the subject, carefully. In paragraph 7 of the Petition two charges have been laid against the Respondent alleging that at his instance the Government Officers arranged his election meetings and he used their official influence to induce the electors to cast their votes in his favour. I may state at once that there is not an iota of evidence to show that any Government Officer used his official influence on any elector and asked a person or persons to cast votes in favour of the Respondent. Except Appendix I (Exhibit 6), there is no evidence to show that the District Magistrate or his sub-ordinates arranged meetings for the Respondent. As

already pointed out some officers of the Government did arrange certain meetings on those two dates and it is to be found, therefore, whether they were in connection with the election of the Respondent. The particulars of these meetings are given in paragraph 7A of the Petition. According to this paragraph there were three meetings on the 15th of January, 1957, at Sultanpur, Bharkhare and Kamtaganj. There is no evidence about any meeting at Sultanpur Inspection-Bungalow and the Counsel for the Petitioner has given up his stand with respect to any such meeting at this place. The meeting at Bharkhare was with regard to a function in the Higher Secondary School of that place and six Government Officers are said to have arranged the meeting and helped in it. One of the Officers was Sri H. D. Pradhan, District Magistrate, who, unfortunately, is dead. Names of five other officers have been given in the 4th column but none has been examined. With reference to the meeting at Kamtaganj names of six officers have been given including that of the District Magistrate and R. W. 14. Sri S. C. Ambuan, Superintendent of Police, R. W. 14, has been examined by the Respondent. No officer has been examined on behalf of the Petitioner. Sri Ambuan has definitely stated on oath that he neither arranged such a meeting or rendered any help in it. His duty was to accompany the Respondent wherever he went as he was the Minister at that relevant time. It is stated in paragraph 7 A that five meetings were held on 16th January, 1957, but the learned counsel for the petitioner has not pressed his contention with regard to the public meetings at Thaura, Shahgarh and Babuganj. He has restricted the activities of the Respondent to a public meeting at Amethi and another public meeting at Gauriganj. None of the Government Officers, mentioned in column 4, has been examined for the Petitioner, and Sri S. C. Ambuan (R. W. 14) has deposed to belie the Petitioner's case with respect to the Amethi meeting also. The oral evidence on behalf of the Petitioner in this connection rests on the depositions of P. Ws 2, 5, 10, 11, 12, and 24. P. W. 2 has stated that the canvassing for the election was going on for about two months prior to the election but, later on, he admitted that he started canvassing for the Petitioner 15 or 20 days prior to the date of polling. There is no material to show from which time he was working for the Petitioner in his election so that he could know that the election work of the Respondent was going on for two months prior to the election. This witness is very much interested in the Petitioner as he was not only his worker but his Polling Agent as well. The next witness is P.W. 5, Ram Lal Pande, who has deposed about the meeting at Gauriganj, on the 16th of January, 1957. He has deposed about another meeting at Gauriganj 15 or 16 days prior to the election but to that I shall refer later on. According to this witness the Respondent asked the Sabhapatis and other members of the Gram Sabha to give their votes after duly considering the present relationship between India and Pakistan. The Respondent also addressed them saying that Haji Abdul Wahid was a begoted and a staunch Muslim, he traded in bones and that he was defeated in the last election. This witness, in the last election, was a canvasser for one Sri Awadhesh Narain Singh, an Independent candidate. He has admitted that he once belonged to the Congress party and in 1952, he became a member of the Praja Socialist Party. This witness cannot be said to be a disinterested one. Moreover, it is hard to believe when, according to him there were about 1,200 men present in that meeting, that the Respondent would dare broach the subject of election. He said at one place that there were workers of all the parties present in that meeting, although, they did not attend on party basis. It is strange that no complaint about this speech was made to any authority anywhere and it is difficult for me to believe that an experienced man like the Respondent in election matters, would expose himself in the way the witness has deposed. I am, therefore, not in a position to rely on this witness. The next witness is P. W. 10, Ram Khelawan Dube. According to this witness, the Respondent addressed the public stating that he had stood for the election and that they should vote after duly considering the question between Pakistan and Kashmir. This witness, too, cannot be said to be an independent one. He was a worker of the same Sri Awadhesh Narain Singh, the Independent candidate and was also his Polling Agent. He admitted in cross-examination that he did not want the Congress to win. The next witness is Sri Sarju Prasad Misra, P.W. 11. He, too, was working for one Shrimati Savitri Devi, an Independent candidate, and was her Polling Agent. He had also worked for sometime for the Petitioner and has admitted in cross-examination that he was against the principles of the Congress and his desire was to see that no body for the Congress succeeded in the election in his circle. It may be stated here that at one time he belonged to the Congress organization but left it three or four years ago and started working for the Socialist party. The other two witnesses are P.W. 12 and 24. P.W. 12 belongs, at present, to the Praja Socialist Party and P.W. 24 is the District Secretary of the same party, who admits that he is against the Congress. P.w.s 11, 12 and 24, depose about the meeting at Bharkhare School and the denial of such a speech

is given in the evidence of the Respondent's witnesses Nos. 11, 14, and 20 and in the evidence of the Respondent, himself as already stated, R.W. 14 is the Superintendent of Police and there is no reason for disbelieving him.

About the meeting at Kamtaganj, there is evidence of P.W. 11, alone, and about the meeting at Amethi there is evidence of P.W. 24 only. P.Ws 5 and 10 have deposed about the meeting of Gauriganj on the 16th of January, 1957. It would appear, therefore, that for the alleged speeches of the Respondent at Kamtaganj and Amethi there is the evidence of only one witness for each such meeting; there is evidence of only two witnesses for the meeting at Gauriganj and evidence of three witnesses for the meeting at Bharkhare school. Not a single independent witness has come forward to depose about these various speeches. No Government Officer has been examined, although, they were mentioned, in the 4th column of paragraph 7A. One independent Government Officer in the position of a Superintendent of Police, who, admittedly, attended two such meetings has given a lie to the Petitioner's version. It goes against all probabilities that the Respondent would expose himself in this manner as alleged, in open public meetings, where more than a thousand persons had congregated. It is also strange that there will be no ventilation of such a matter in the press or anywhere either in the shape of a news item or in the character of complaint made before any authority by persons who were deeply interested to see that the Congress candidate did not succeed. It is stated in paragraphs 8 and 8A that the Respondent was given Guard of Honour by the police at various places which he visited on those two dates and the Government Officers were on attendance on him giving the impression that the Government was backing the Respondent. R.W. 14 has stated that he and the District Magistrate followed the Respondent wherever he went on those two days as it was their duty to do so. Their presence and the presence of other Government Officers, cannot, therefore, be made a subject-matter of criticism when they were only discharging their duties. The Police was also present but R.W. 14 has deposed that no Guard of Honour was given to the Respondent on those two days. I believe him and hold that no Guard of Honour was presented by the Police to Respondent No. 1. It is again significant that on the 15th and 16th of January, 1959, the Respondent did not even know that the Petitioner was going to stand for election and, therefore, there was no occasion for him to refer to the Petitioner in the meetings at those places.

My findings on the Issues No. 1, on the 2nd part of issue No. 2 and on issue No. 3 are, therefore, as follows:—

The Respondent No. 1 did not enlist the support of the District Magistrate and the Government Officers for arranging election-meetings on the 15th and 16th of January, 1957, as alleged in paragraph 7 and 7A of the Petition. The Government Officers did not use their official influence to induce the electors to cast their votes in favour of the Respondent. No Government servant assisted the Respondent in arranging any meeting which had any connection with the election—campaign or propaganda and no Guard of Honour was given to the Respondent at the places which he visited according to the paragraphs 7A and 8A of the Petition. The Respondent never held himself out as a prospective candidate and the Petitioner has signally failed to prove that the Respondent committed the corrupt practice of obtaining or procuring the assistance of a person in the service of the Government for the furtherance of the prospects of his election. At one time, it was contended, on behalf of the Petitioner, that the Respondent will be equally guilty of having committed a corrupt practice as described in section 123, sub-section (7) of the Representation of the People Act, even if the persons in the service of the Government rendered assistance to the Respondent without knowing that the assistance they were rendering was going to benefit him in his election. The proposition is not unsound, standing by itself, but, in the present case, my findings are that the Respondent was not doing any work in connection with the election on the 15th and 16th of January, 1958, and, therefore, if any assistance was rendered to the Respondent in their official capacity, the obtaining or procuring of such assistance cannot be held to be a corrupt practice under section 123 sub-section (7).

Accordingly, the entire Issue No. 1 and the second part of issue No. 2 are answered against the Petitioner. Issue No. 3 is also answered against the Petitioner, with the observation that it is not necessary whether the facts contained

in paragraphs 7 and 8 amount to a corrupt practice when these facts have been found to be untrue and disproved.

(1st part of Issue No. 2 and Issue No. 9:—

I shall now turn to the first part of issue No. 2, and issue No. 9. There can hardly be any doubt that if the national flag was used on the car of the Respondent on the 15th and 16th of January, 1957 and he was then busy in his election the use will render him guilty of a corrupt practice within the meaning of section 123 sub-section (3) of the Representation of the People Act. I have, however, given my decision that on these two dates the Respondent was not holding himself out as a candidate and was not doing any election work. Accordingly, even if the national flag was used on those two dates it cannot be said that the Respondent has committed a corrupt practice by using the same.

Evidence has been led on behalf of the Petitioner to show that the national flag was used by the Respondent on his car, not only on the 15th and 16th of January, 1957, but also on other days when, admittedly, election work of all the parties was going on in full swing. P.W. 1 has stated that he had seen the use of the national flag by the Respondent at Araru-Baba-ka-Mela. This fact, however, is not mentioned in the Petition. I have already indicated that P.W. 1 is not a disinterested witness. He was opposing the congress, according to his own admission, for almost all the time, and was working for the Praja Socialist Party from the same constituency, i.e., the Musafirkhana constituency, from which the Respondent had stood. According to this witness Musafirkhana was the nearest police station from Araru Baba-ka-Mela, but it is strange that no complaint about this use of the flag was made to any authority there. No complaint was despatched any where, although there was a Post and Telegraph Office at that place. P.W.2, admittedly, was a worker and a Polling Agent of the Petitioner. He is supposed to have seen the Respondent moving about in a car on the 8th of March, 1957, at Ramganj and there was a flag with a picture of the Ashoka Chakra placed in front of that car, which, at the rear had the sign of the fish, a symbol of the Uttar Pradesh Government. Nowhere in the Petition it has been stated that the Respondent used the national flag or any national emblem or any Government symbol at Ramganj. There is no evidence that there was ventilation about this corrupt practice before any authority, although, P.W. 2 had ample opportunity to do so. P.W. 5 has stated about the use of a national flag by the Respondent on his car at Gauriganj. According to him the flag was on the front of the car and on the rear side-bumpers, there were symbols of the Ashoka Chakra. This was during the second meeting at Gauriganj. The witness was a canvasser for Sri Awadhesh Narain Singh, an Independent candidate, for the Vidhan Sabha. At first he belonged to the Congress party, but, later on, in 1952, he became a member of the Praja Socialist Party. It may be remembered that the Petitioner was also an Independent candidate but, although, a corrupt practice of this nature had been committed in his (witness's) very presence, there was no complaint anywhere. He was also the Polling Agent and general agent for Sri Awadhesh Narain Singh. It is difficult for me to put any reliance on this witness. P.W. 9 speaks about the use of the national flag at Musafirkhana, which is not in the particulars given in the Petition. He has said that when notices like Exhibit 2 were being distributed a tricolour flag with the print of Ashoka Chakra on it was flying on the car of the Respondent. This witness does not belong to the locality and had come to Musafirkhana to purchase cloths about which there is no corroborative evidence. The evidence of this witness appears to be of a chance character. P.W. 10 has deposed about the use of the national flag by stating that he used to see the Respondent moving about in his car using a national flag with the picture of Ashoka Chakra on it. This witness was also a worker, Polling Agent, and canvasser for Sri Awadhesh Narain Singh, an Independent candidate, and, according to his own statement, he did not want the congress to win the election. It would appear, therefore, that there is the evidence of P.Ws 5 and 10 only, regarding the use of the national flag at Gauriganj, which particular has been mentioned in the Petition, and there is no mention in the Petition about the use of such a flag at Araru-Baba-ka-Mela, at Musafirkhana and at Ramganj. The use of the flag, if made on the 15th and 16th of January, 1957, was harmless, and the Respondent's witnesses have denied the use of the national flag at any time when the election work was going on. There is, accordingly, no evidence, worth the name, to hold that the national flag was used by the Respondent. It should be held, therefore, that he had not committed the corrupt practice within the meaning of section 123-subsection (3) of the Representation of the People Act.

The first part of the issue no. 2 and issue no. 9, are answered in the negative against the Petitioner.

*Issue Nos. 4 and 5:—*

The relevant paragraphs in the Petition are paragraph 10, 11(a), and 11(a) (i) and 11(a) (ii). Paragraph 10 is in general terms and it is alleged that the Respondent took recourse to fraud, intentional misrepresentations, corrupt practices and other electoral offences as detailed in the following paragraphs, namely paragraphs 11(a), 11(a) (i), and 11(a) (ii). Paragraphs 11(a) relates that one Kunwar Rananje Singh of Amethi had contested the election for a seat in the Uttar Pradesh Legislative Assembly from the Amethi constituency as an Independent candidate against a congress candidate in the General Elections of the year 1952 and had succeeded by huge majority of votes. This time, he was won over by the Respondent who gave promise to him that he would be nominated as a member of the Uttar Pradesh Legislative Council if he did not stand in the election. It is alleged that on account of this offer and promise Kunwar Rananje Singh became an active supporter of the Respondent and held public meetings in support of Respondent's election, in Kali Kan, Amethi, Gauriganj, and other places, made speeches in favour of the Respondent no. 1 and distributed amongst the electorate notices, a copy of which has been marked Exhibit 1. It has been brought out in evidence and it has not been denied that Kunwar Rananje Singh did not stand in the last election, although he was a popular figure in the locality, that he was a supporter of the Respondent and had, afterwards, been nominated to the Uttar Pradesh Legislative Council. The Respondent, on the other hand, has said, that he was not in a position to get the nomination of Kunwar Rananje Singh for a seat in the Legislative Council and that he had never held out any promise or offer to him as alleged. He is supported by R.W. 20 According to the Respondent, he was not a member of the Parliament and had no influence to get any man nominated in the Legislative Council. He has admitted that he knows Kunwar Rananje Singh for a long time and that on the 16th of January, 1957, he called on him at Amethi, which was merely a courtesy call. He has further stated that there was no talk about the coming election, but, during the election he had asked him to work for him, which he did and on two occasions accompanied him in his election tour. The question to be decided is whether the Respondent held out a promise to Kunwar Rananje Singh on the 16th of January, 1957, The only witness for the Petitioner, on this matter, is Sri Bindeshri Prasad Tewari (P.W.25). He says that he was present when the Respondent arrived at the house of Kunwar Rananje Singh on the 16th of January, 1957. He has rendered an explanation for his presence in as much as he, himself, had approached Kunwar Rananje Singh to fight the election on the ticket of the Praja Socialist Party and the later had told him that the Respondent was coming to him on the 16th of January, 1957, and that he would give his answer after he had met him. It is difficult for me to believe that he would choose just that time, on the 16th of January, and not after that date to go to Kunwar Rananje Singh in order to obtain his decision. According to him the Respondent had a talk with Kunwar Rananje Singh in his presence and the Respondent told Kunwar Rananje Singh that he should not stand this time for the Assembly for which he would be made a member of the Legislative Council. This witness, admittedly, has hostile interest to that of a congress candidate as he is the District Secretary of the Praja Socialist Party at Sultanpur. He has admitted that he once belonged to the Congress party but as his views became different he left that organization. In the last election of 1957, it is his further admission, that he wanted to see the Praja Socialist candidate to be victorious against the Congress wherever there was a contest between these two parties. He has stated in his cross-examination that he was not known to the Respondent when he met him at the house of Kunwar Rananje Singh but was introduced to him as the Secretary of the Praja Socialist Party after the talk. It is hardly to be believed that such introduction would take place after the talk about his nomination in the Legislative Council was over. It is improbable that Kunwar Rananje Singh who knew him to be a Secretary of the Praja Socialist Party would enter upon a conversation relating a matter which do vividly amounted to a corrupt practice. It is equally improbable that the Respondent would start talking with Kunwar Rananje Singh on such a vital but confidential matter in the presence of an unknown person without even asking as to who the person was. P.W. 24 has stated in his cross-examination that he did not complain to any authority about this attempt to win over Kunwar Rananje Singh; nor did he get it printed in the news-paper that Respondent was attempting to influence men by promising seats in the Council. If these facts were true, and when P.W. 24 was disappointed in not getting Kunwar Rananje Singh as a candidate



for his party, he would have, in the ordinary course, at once ventilated this fact of gross corrupt practice in the news-papers, or put the matter before some authority in the shape of a complaint. Nothing of that kind was done, and I am afraid, I am not in a position to accept the uncorroborated testimony of only one witness which is opposed to the natural reaction of an individual. I hold, accordingly, that there was no promise or offer advanced to Kunwar Rananje Singh by the Respondent as alleged in the Petition.

In paragraph 11(a) it has been stated that Kunwar Rananje Singh held public meetings in support of the Respondent at many places including Kalikan, Amethi and Gauriganj. It is not stated in paragraph 11(a) that Kunwar Rananje Singh gave any speeches at these public meetings. It is merely alleged in this paragraph that the respondent attended most of these meetings arranged by Kanwar Rananje Singh and there he (Respondent) gave out threats that a Hindu voting for the Petitioner would render himself a subject of divine displeasure or spiritual censure as he was carrying on the trade in animal bones, including in particular bones of cows, and, would leave no stone unturned to get cow-slaughter started again. In sub-paragraph (i) of paragraph 11 (a) where particulars have been given with respect to the meeting at Amethi held on 16th January, 1957, at 11 A.M., it has been stated that Kunwar Rananje Singh was one of the four who had addressed that meeting. It is not mentioned in this sub-paragraph which supply the particulars of the corrupt practice mentioned in paragraph 11 (a) that Kunwar Rananje Singh addressed the meetings at Kali Kaln, Gauri Ganj and other places. There is only one witness, namely, P. W. 18, who has spoken about Kunwar Rananje Singh canvassing at Kalikan stating that the Petitioner was a Pakistani agent, a trader in bones and that cow-slaughter would start again if he succeeded. This witness is a lawyer and in the 1952 election had worked for Kunwar Rananje Singh. On hearing the canvassing and the speech of Kunwar Rananje Singh he concluded that it was against the law and amounted to a corrupt practice, but he neither protested then and there nor submitted any complaint anywhere. He said that he expressed his grievances in some of the news-papers, but, unfortunately, no such newspaper has been proved and the witness has said that he is not in a position to produce that newspaper in which he disclosed his grievances. This witness cannot be said to be an independent one as he did not want the congress to win and was conscious of the fact that his own election was being affected by the speech and canvassing of Kunwar Rananje Singh, who was working for the Congress party. I refuse, therefore, to believe this witness that he saw Kunwar Rananje Singh either canvassing or speaking in a meeting at Kali Kan, as alleged. P. W. 24, Sri Bindeshri Prasad Tewari, the District Secretary of the Praja Socialist Party at Sultanpur, had attended the meeting at Amethi, which was addressed by the Respondent and others, but he does not say if Kunwar Rananje Singh stated in this meeting at Amethi that the Petitioner was a trader in bones, that cow-slaughter would start again if he succeeded and that a Hindu would render himself an object of divine displeasure and spiritual censure by voting in his favour. It is the petitioner's case that the meetings on the 15th and 16th of January, 1957, were attended by a large number of Government Officers and other persons representing all parties and it stands against all probabilities that in such a meeting Kunwar Rananje Singh would raise a communal alarm, give out threats to the Hindu section of the public and would also refer to other matters mentioned in paragraph 11 (a). My finding, accordingly, is that Kunwar Rananje Singh did not address any meeting in the manner alleged in paragraph 11(a) and 11(a) (i).

It is also alleged in paragraph 11(a) and 11(a) (ii) that Kunwar Rananje Singh published and distributed notices like Exhibit 1 among the electorate. The exhibit, as already stated, is Appendix I and the Respondent has said that he came to know about this notice only when he received a copy of the Petition along with the copies of the appendices. His witnesses have also denied the printing, the publication or the distribution of notices like Exhibit 1, anywhere, within the constituency. P. W. 7, Narain Goswami, has deposed that his Press at Lucknow printed Exhibit 1 in the month of February, 1957, at the instance of Kunwar Rananje Singh. He has said that he printed one thousand or two thousand copies of Exhibit 1 and charged about Rs. 7 or 8, for the same. It is difficult to believe this witness that notices like Exhibit 1 were printed at the instance of the Kunwar, or on behalf of the Respondent. He has said that there is an order book in the Press and the order for printing of this notice was entered in a register. Unfortunately, neither the order book nor the register has been produced in this case. The witness admits that Kanwar Rananje Singh did not personally come to the Press to place the order but his Secretary

came and the Secretary was probably one Ram Kishore Shastri. On further cross-examination the witness says that he maintains a Cash book in which all payments are entered but that cash book has not been produced to show that any payment was made by Kunwar Rananje Singh or by his Private Secretary. He again admits that the counterfoil for the receipt of Exhibit 1 still exists in the Press, but that, too, has not been produced. The Petitioner, therefore, to my mind, has signally failed to prove the printing of Exhibit 1 either by or on behalf of Kanwar Rananje Singh.

On behalf of the Petitioner, P. W. 1 Paras Nath Dwivedi, P. W. 2 Zamin Ali Khan, P. W. 5, Sri Ram Pal Pande P. W. 17, Sri Jagat Narain, and P. W. 18, Sri Vijai Pal Pande, have been examined to prove the distribution of notices like Exhibit 1 at various places. P.W. 1 has stated about the distribution of Exhibit 1 at Araru-Baba-ka-Mela which does not find any mention in the petition. P. Ws. 2, 5, and 17 have deposed about its distribution at Gauriganj and P. W. 18 has stated about its distribution at Amethi. None of these witnesses are residents of these places. I have already indicated how P. Ws. 1, 2, and 5 cannot be termed as independent witnesses in this case. According to P.W. 2 Kunwar Rananje Singh was distributing notices like Exhibit 1 in Gauriganj in presence of agents and workers of other candidates. This is hard to believe in absence of any corroboration. He has stated in his cross-examination that when he read Exhibit 1 at the spot he realized that its distribution was unlawful and unfair and that the Petitioner would be harmed by this distribution. It is strange, however, that he would not object immediately either to the Respondent or to Kunwar Rananje Singh, nor, bring the matter to the notice of the authorities. He informed the Petitioner on the next day about the distribution of such notices but it is equally strange that the latter did not produce him either before the District Magistrate or before the Election Officer. He, himself, did not think it necessary to go and report to the District Magistrate and to the Election Officer. P. W. 5 who is now a member of the Praja Socialist Party and at that time was working for an Independent candidate has deposed about the distribution of Exhibit 1 by Kunwar Rananje Singh in the second meeting at Gauriganj while Respondent was sitting in his car. I am not prepared to believe a witness who is not wholly disinterested without corroboration. The next witness is P. W. 17 and his evidence appears to be that of a chance character. He had gone to the village of his maternal grand-father and from that place went to Gauriganj, out of curiosity, as other people were proceeding there. P. W. 18 is the lawyer about whose evidence I have discussed already. It is extremely difficult to rely upon such a witness. On the other hand, there is the evidence of the Respondent, himself, who has said that he saw this notice for the first time when he received a copy of the Petition, that he did not authorize Kunwar Rananje Singh to get such notices printed, published or distributed and that such notices were never printed, published or distributed, with his consent or within his knowledge. He is supported by R. W. 15, Sri Ganga Prasad Gupta, a Medical Practitioner who has his house at Gauriganj Bazar. He does not belong to any party and has said that he remains at his dispensary from 8 A.M. to 12 noon and again from 4 P.M. to 5 P.M. His shop and his house are in the same building. He has said that there was no distribution of notices like Exhibit 1 by Kunwar Rananje Singh in his presence and he is supported by R. W. 16, Sri Ram Kumar, who is a Sabhapati of village Katra Lalganj. Gauriganj Bazar is held on the lands between two villages, one is Madho Pur and the other Katra Lalganj, where this witness resides. He has said that in the first week of February, 1957, there was a congress meeting at Gauriganj Bazar which was addressed by the Respondent, but, in that meeting Kunwar Rananje Singh was not present. He was also not present in the Gauriganj meeting held on the 16th of January, 1957. He has also averred that no *Parcha* was distributed in any of the two meetings. It was suggested to him that he had come to depose at the instance of the Block Development Officer which has not been substantiated. The other two witnesses, on this point, are Sri Guru Prasad Singh (R. W. 20) and Sri Ram Saran Dass (R. W. 23). R. W. 23 is the owner of the land on which the Bazar known as Araru-baba-ke-Mela takes place. He knows Kanwar Rananje Singh and has deposed that he (Kunwar Rananje Singh) did not come to the Bazar area for the last two or three years. He discredits the evidence of P. W. 1 about the distribution of this notice (Exhibit 1) at Araru-baba-ka Mela, and he appears to me to be an independent witness. The only suggestion to him was that he had come to depose at the instance of Kunwar Rananje Singh and Rama Kant and on account of an enmity with Sri Bajpai (P. W. 25). There is nothing to show how he could be influenced by Kunwar Rananje Singh and Sri Rama Kant, and about Sri Bajpai he has volunteered that at present he has friendship with him, I find, therefore, that the Petitioner has not been able to prove the distribution of Exhibit 1 by Kunwar Rananje Singh at

Araru-baba-ka-Mela, at Gauriganj, or, at Amethi. In view of this finding, whether Exhibit 1 was distributed in the presence of the Respondent or was distributed with his consent does not arise at all.

I shall now advert to the question whether notices like exhibit 2 were distributed by one Rudra Pal Misra, said to be a congress worker, as mentioned in paragraph 11(a) and in paragraph 11(a) (ii). No particular is given in paragraph 11(a) about the distribution of this exhibit. It is merely stated that a notice like Exhibit 2 was printed, published and distributed amongst the electorate by Shri Rudra Pal Misra. In sub-paragraph (ii) of paragraph 11(a) where it is supposed, the particulars about this subject would be given, it has only been stated as follows, "Similarly the Respondent No. 1 knew the untruthfulness and falsehood of the contents of the notice printed, published and distributed in the constituency by Shri Rudra Pal Misra. (A Copy of the same is attached to the Petition as Appendix 3). It was also distributed in the knowledge and in the presence of the Respondent No. 1 throughout the constituency". It would appear, therefore, that particulars about this corrupt practice have not been supplied by the Petitioner, although, full opportunity was given to him. No place, time or date of the distribution by Shri Rudra Pal Misra of Exhibit 2 has been mentioned in any of the paragraphs of the Petition. It was the duty of the Petitioner to give these particulars to enable the Respondent for meeting these allegations. On the face of it the story of distribution of this Exhibit by Rudra Pal Misra should at once be rejected. However, I shall discuss the evidence led by the parties on this matter to find out whether in spite of absence of the particulars in the Petition the evidence led by the Petitioner can be accepted. The Petitioner has examined Dashrath Prasad Pathak, P.W. 15, to prove that this notice was printed in the 'Janmat' Press. This witness produced a mutilated manuscript, which has been marked Exhibit 8 and has deposed that this is the original of Exhibit 2 which had been published in his Press. He is however, unable to say who gave this Exhibit 8 to the Press for the purpose of publication. He also could not say in whose hand-writing it was. He did not compose Exhibit 8 and could not say that it was received in the Press. One Shri Kedar Singh is the Manager of this Press, but he has not been examined, although, it was he who could have thrown some light on Exhibit 2. P.W. 25 is Sri Viddya Dhar Bajpai who has deposed that Exhibit 8 is in the hand-writing of Shri Rudra Pal Misra. It appears from his cross-examination that he is not at all an independent witness. At one time he belonged to the Congress and so did his wife, Shrimati Savitri Devi. They were not given congress tickets in the last election and he admits that if his wife had been given a congress ticket he would not have left the congress organization. He had at first stood as a candidate against the Respondent but withdrew as he thought that he had no chance. He had intended to stand from the same constituency, i.e., the Musafirkhana constituency against the Respondent. His wife had been fighting the election against Shrimati Prabhawati Devi, who was a congress candidate. The husband of this Shrimati Prabhawati Devi was a strong supporter of the Respondent in the last election. Shrimati Savitri Devi, the wife of the witness, could not succeed and brought an election case against Shrimati Prabhawati Devi. In this case the Respondent appeared as a witness against Shrimati Savitri Devi. I am not prepared, therefore, to accept the sole testimony of this witness as a proof of the fact that Exhibit 8 was in the hand-writing of Sri Rudra Pal Misra. P.W. 26 the Respondent has stated that he came to know about Exhibit 2 for the first time when he received a copy of the petition with the appendices. He never authorized any body to get notice like Exhibit 2, printed, published or distributed and that Shri Rudra Pal Misra was not working for him in the election. He has also said that if Sri Rudra Pal Misra had printed such a notice that was without his consent or knowledge. At the same time he has deposed that Sri Viddya Dhar Bajpai, in the last election, considered him as his enemy number one. In cross-examination, he has said, that Sri Rudra Pal Misra was a congress-man but there was a doubt about his loyalty as he was a man of Sri Ganpat Sahai, who had been refused a congress ticket. He has, however, admitted that Rudra Pal Misra might have been his Polling Agent and had neither been suspended nor expelled from the congress during the election days. Sri Rudra Pal Misra has not been examined, but, I cannot draw an inference against the Respondent on account of his non-examination the evidence about the authenticity of Exhibit 8 is so scanty and interested.

The distribution of Exhibit 2 has been deposed to by P.Ws. 1, 2, 5, 9, 10, 12, and 21. I have already given my reasons for not believing the evidence of almost all these witnesses. Even P.W. 12 is at present a member of the Praja Socialist Party and there is no corroboration of his statement. According to him he received a notice like Exhibit 2 at the Pakhauli meeting, but that notice could

not be produced in the court as that is said to have been misplaced somewhere. Similarly, P.W. 21 also belongs to the Socialist Party. Although, after reading Exhibit 2 his impression was very bad, he did not speak anything to Sri Rudra Pal. According to him he had a talk with Sri Rudra Pal afterwards and Rudra Pal is said to have told him that such notices like Exhibit 2 he got printed and circulated at the instance of Dr. Keskar. At that time he was canvassing for one Ram Bahadur, who was a candidate for the Praja Socialist Party. He neither protested to Sri Rudra Pal nor complained about the distribution of this notice at any police station. He did not send a copy of the notice to the Petitioner and did not make any report about it to him at any time. I am, therefore, not willing to place any reliance either on this witness or the other witnesses who have come forward to depose about the distribution of Exhibit 2. Issues 4 and 5 are, accordingly, answered against the Petitioner.

#### Issue No. 6

This issue relates to the allegations made in paragraph 11(b) of the Petition. It is said that the Private Secretary to Kunwar Rananjaya Singh, Sri Ram Kishore Shastri, sent in a local newspaper, called the 'Sanatan', a notice (Exhibit 7). This notice appeared as a news-item in the Bharat, and has been marked Exhibit 3-1. It is stated in this notice that the Petitioner was spending money lavishly and was purchasing votes. It also stated about an alleged disturbance of a speech while being delivered by Kunwar Rananjaya Singh by Sri Vijai Pal Pande, said to have been a supporter of the Petitioner. P.W. 6, Sri L. M. Tripathi, has proved Exhibit 3-1 and P.W. 14, Sri Raja Ram, has proved Exhibit 7, and also the envelope in which the Exhibit 7 was enclosed. In his examination-in-chief, this witness has stated that Exhibit 7 had been sent by Sri Ram Kishore Shastri but in cross-examination he had to admit that he was not in a position to say who the writer of Exhibit 7 was and that the letter was not published by his Press. He was a witness for Shrimati Savitri Devi in the election case against Shrimati Prabhawati Devi and it was urged, on behalf of the Respondent, that the learned Tribunal in that case passed some adverse remarks against him and also regarding the books produced. That is all the evidence so far as this issue is concerned and I hold that the Petitioner has not been able to prove any corrupt practice as alleged in paragraph 11(b) of the Petition. The issue is decided against the Petitioner.

#### Issue No. 7

This issue relates to the charges made in paragraph 11(c) of the Petition. This issue overlaps issue no. 5 about which I have already given my findings. It is stated in the first part of paragraph 11(c) that the Respondent, Kunwar Rananjaya Singh, and other supporters and canvassers stated in open meetings that the Petitioner was a Pakistani Agent and if he was elected to the House of the People he would vote in favour of Kashmir's accession to Pakistan, and, therefore, Hindus should not cast their votes for him but should cast their votes for the Respondent. This allegation is made by way of adding to the charges made in this connection in sub-paragraph 11(a)(i). The names of those workers who had addressed those public meetings have been given in the last part of paragraph 11(c), where it is stated that on 15th January 1957 at the P.W.D. Inspection bungalow, Sultanpur, at Bharkhare Higher Secondary School and at Kamta Ganj, the Respondent, Lachmi Narain, Gur Din Pande, Ram Nath Singh and Har Narain Singh addressed the public meetings mentioning the fact that the Petitioner would vote in favour of Kashmir's accession to Pakistan. The Petitioner has examined P.W. 11, whose evidence I have already discussed. The Petitioner has also proved Exhibit 4-1 and 5-1 which are the news-items in the 'Bharat' dated the 14th of February, 1957 and 28th of February, 1957 to show that on account of these utterances about Kashmir's accession to Pakistan Sri Vijai Pal Pande, publicly gave out that he was not associating any more with the Petitioner in the election. I have already given my reasons for disbelieving the witnesses for the Petitioner on the charges that the Respondent and his workers had made election speeches on the 15th and 16th of January, 1957, and there is no necessity to repeat them here. In my opinion, there is no substance in this charge and I hold that the allegations made in paragraph 11(c) have not been proved. This issue, too, is answered against the Petitioner.

#### Issue No. 8

This issue is based upon the charges made in paragraph 11(d) and sub-paragraph 11(d)(i) of the Petition. It is alleged that systematic appeals had been made for the Respondent to refrain from voting for the Petitioner on the grounds of caste and community. It is stated that one Sri Jagga Dass (R.W. 22),

a Harijan, was a supporter of the Respondent no. 1 and he appealed to the Harijan voters of that constituency to vote and work for the Respondent as Harijans were Hindus and they should never like to support the Petitioner, who was a Muslim. It is also stated in sub-paragraph 11(d)(i) that the Respondent addressed meetings in which he asked the voters to refrain from voting for the Petitioner on the grounds of caste and community. These meetings were the very same ones about which particulars have been given in sub-paragraph 11(a)(i). So far as the charges referred to in this sub-paragraph is concerned I have already held the same to be untrue. There is no evidence about any meeting at Lambhua Bazar on 8th of February, 1957, and there is also no evidence that Sri Jagga Dass (R.W. 22) addressed any of the meetings mentioned in sub-paragraph 11(a)(i). The only witness about this charge is Sri Ram Dhan (P.W. 13), who has stated that Jagga Dass and others were canvassing for the Respondent stating that if the Harijans cast their votes for the Respondent it would be to their benefit that the Petitioner was a Haddiwala Musalman and no one should cast his vote for him. I am unable to accept the uncorroborated statement of only one witness in support of the charge that Sri Jagga Dass was appealing to the Harijan voters on communal lines. Sri Jagga Dass has been examined by the Respondent and he has categorically denied the allegations made by the Petitioner concerning him. It is true that he is an employee under the District Board, which at the time of the election was under the Presidentship of Sri Deo Kali Din Sharma (R.W. 1), the Election Director of the Congress organization, but, it has been brought out on the record that since about one year or so Deo Kali Din Sharma is no longer in that position of the first man in power in that Board but is under the District Magistrate of the Sultanpur district. It is difficult for me to believe, therefore, that R.W. 22 was speaking a deliberate lie at the instance of Sri Deo Kali Din Sharma. In any case, the evidence relating to this charge is totally insufficient and I am inclined to believe R.W. 22 that he did not canvass for the Respondent on caste and communal lines. I hold, accordingly, that the allegations contained in paragraph 11(d) and 11(d)(i) are not correct and no corrupt practice had been committed for the Respondent by making any systematic appeal on the grounds of caste and community. This issue is, accordingly, decided against the Petitioner.

*Issue No. 9:—*

This issue rests upon the allegations made in paragraph 11(e) and sub-paragraph 11(e)(i). The allegations based upon this issue has already been discussed and disposed of with that of issue no. 2 as they practically overlap each other. It is with respect to the use of the national flag, during the period between 15th of January, 1957 to 16th of January, 1957, 26th of January, 1957 to 6th of February 1957 and 15th of February, 1957 to 9th March 1957. The witnesses are the same namely, P.Ws. 2, 5, 9, 10, 11, and 12, none of whom can be termed as disinterested or independent witnesses. I repeat here that the Petitioner has not been able to prove the use of the national flag on any of the two periods commencing from 26th of January, 1957 and if that flag had been used on the 15th and 16th of January, 1957, that was not a corrupt practice, because, as stated by the Respondent in his written statement, the election process had not started and on those two dates the Respondent had been visiting the Sultanpur area in his official capacity, alone. My finding on this issue is, therefore, that the Respondent is not guilty of any corrupt practice by using the national flag on the 15th and 16th of January, 1957 and that no corrupt practice, by using the national flag, was committed by him during the election days. The issue has already been answered in the negative.

*Issue No. 10:—*

This issue is based upon the allegations made in paragraph 11(f) of the Petition. This issue also overlaps issue no. 5. It refers to the publication of the notices, Exhibits 1 and 2 and states that the Respondent no. 1 and his agents and workers knew the facts contained in those Exhibits to be false and, therefore, the Respondent must be held guilty of having committed the corrupt practice within the meaning of section 123, sub-section (4) of the Representation of the People Act. As my findings are already there with respect to the same facts based on a different charge, the same should apply with respect to this charge as well, and accordingly, I hold that the Respondent has not committed any corrupt practice under section 123, sub-section (4) of the Representation of People Act. The issue is accordingly answered in the negative.

*Issue No. 11:—*

This issue depends upon the facts mentioned in paragraph 11(g) and sub-paragraph 11(g)(i) of the Petition. It is stated in paragraph 11(g) that the Respondent, himself, and through his workers, supporters and agents namely Sri

Deo Kali Din Sharma, Sri Ram Jiawan Dube, Sri Gur Prasad Singh, Sri Rama Kant Singh, and others, engaged a number of ekkas and rickshaws to convey the voters to the various polling stations, and thereby committed the corrupt practice as defined in section 123, sub-section (5) of the Representation of the People Act. In sub-paragraph 11(g)(1) it is alleged that the ekkas and rickshaws referred to in paragraph 11(g) were hired and procured to convey the voters to the Polling Stations at Lambhua and Ramganj, on the 9th of March, 1957, by the Respondent and his workers and supporters and that the hiring had taken place on the 8th of March, 1957, through Sri Banke Behari, a worker of the Respondent with his consent. It is significant that in these two paragraphs no name of any Ekkawala or Rickshaw-puller has been given and the name of any voter said to have been carried to the Polling Station has been deliberately omitted. In spite of sufficient opportunity given to the Petitioner to give particulars of his general charges. There is no evidence that Sri Deo Kali Din Sharma, Sri Ram Jiawan Dube, Sri Gur Prasad Singh and Sri Rama Kant, engaged any Ekka or Rickshaw to convey the voters to any Polling Station. The evidence on this charge rests upon the depositions of P.Ws. 2, 3, and 4. All these depositions relate to the conveying of voters to the Polling Station at Ramganj only and not at Lambhua. According to P.W. 3, Sri Nageshar, he was called to the congress office of Ramganj Bazar one day before the polling i.e., on the 8th of March, 1957 and there was talk between one Sri Banke Behari and the Respondent about bringing the old men and women voters to the polling station by means of conveyances. Then some rickshaw-pullers and ekkawalas were called in presence of the Respondent and on the next day, P.W. 3 who was working for the Congress at that time, brought eight voters to Ramganj Polling Station from village Khana Pur on two ekkas and five or seven voters from village Bhikapur, similarly on two ekkas, for which he was paid by Banke Behari, Rs. 3/-, as remuneration for the work done by him on the Polling day. P.W. 4, Sri Ram Sukh, is a rickshaw-puller. He, too, has deposed about his engagement by Banke Behari in presence of the Respondent on the 8th of March, 1957 and about his bringing old men and women from Ramganj and Durgapur to the Congress Office at Ramganj. They are supported by P.W. 2. Sri Zamin Ali Khan, the admitted worker of the Petitioner who has said that he was the polling agent of the Petitioner at Ramganj Polling Station and on the polling day he saw many voters being taken there on rickshaws and ekkas carrying the congress flags. Banke Behari and Bhagauti Din Singh were working for the Congress and there were six or seven such rickshaws and six or seven such ekkas. He took down the names of two rickshaw-puller, namely Ram Sukh (P.W. 4) and Ganpat (not examined). According to him about 100 or 125 such voters were brought on these rickshaws and ekkas. This story about bringing old and feeble voters of both the sexes to Ramganj Polling Station or to Ramganj Congress Office appears to me wholly absurd. According to P.W. 2 the worker and polling agent of the Petitioner, who is said to have been working at that particular polling station of Ramganj on that day, about 14 vehicles were engaged in bringing about 100 or 125 voters, but it is a matter of surprise that nothing was done to prevent such voters being brought on the vehicles. According to P.W. 4 he was carrying the voters from 7 A.M. and finished his work at 5 P.M. P.W. 2 was conscious of the fact that the use of vehicles to bring voters was a corrupt practice and he verbally complained to the Polling Officer who merely told him that he was going to ask the party not to bring voters on vehicles. According to this witness the Polling Officer did not ask the Congress party to refrain from bringing voters on vehicles, yet, no written complaint was filed, either before the Polling Officer or before any superior authority. Again, this very witness, has admitted that Shrimati Savitri Devi, who was fighting against the Congress and her husband Sri Vidya Dhar Bajpai (P.W. 25) were present at that polling station throughout the polling, yet, they were not informed of this glaring corrupt practice. It is extremely improbable that in presence of persons who were dead against the Congress and were fighting the election against that party, Banke Behari or any other worker for the Respondent would dare bring voters on rickshaws and ekkas throughout the day when polling was going on. P.W. 4 has also admitted that there was a Police Station at Ramganj and that there were 10 or 12 police constables present at the Polling Station. It is surprising that no complaint was made to any police constable or to any police officer. This very witness has also stated that no person prevented him from bringing the voters to the polling station, which is improbable, when rival parties and their candidates were all present at and near about the polling station. Accordingly, I reject the story about bringing voters on rickshaws and ekkas as being utterly untrue.

The Respondent (R.W. 26) has denied consenting to a hiring of ekkas or rickshaws and so have R.W. 1, Sri Deo Kali Din Sharma and Sri Bhagauti Din (R.W. 12) who were working in this connection, according to P.W. 3, R.W. 9, Sri Gaya Prasad and R.W. 10, Sri Jagat Pal Singh, alias Babban Singh have

deposed that the Respondent did not come to the Congress Election Office one day prior to the date of polling. These two witnesses were polling agents of the Respondent, and therefore, can be described as being interested in him. There is, however, the evidence of R.W. 2, Sri Bukhare and R.W. 25, Sri Pudai, in support of the Respondent's denial that no vehicle was engaged for bringing voters to the polling station. R.W. 2 is an Ekka-driver and he says that on the polling day he did not carry any villager to the polling station. He has given reasons for not plying the vehicle on that day as he says, the courts were closed and as he had to vote he thought it best not to take out his vehicle. R.W. 25 is another ekka driver. He has denied having gone to Ramganj one day before the date of polling to be engaged by Banke Behari as alleged by P.W. 3 and has said that he and Bukhare did not ply their ekkas on the dates of polling and did not bring any voter to the polling station. It appears this witness had gone to the polling station with his family to cast votes and had remained at the polling station for about 3 or 3-30 p.m. It has been suggested to them that they had come to depose falsely at the instance of Banke Behari, Gaya Prasad, Bhagauti Din, and others, but I am inclined to believe them when I am convinced that the story told by P.Ws. 2, 3, and 4 was extremely improbable. I hold, accordingly, that the Respondent did not commit any corrupt practice by hiring any ekka or rickshaw for carrying voters to any polling station. This issue is answered in the negative against the Petitioner.

*Issue No. 12:—*

The learned counsel for the Petitioner has not pressed this issue. There is virtually no evidence in support of the allegations mentioned in paragraph (h) of the Petition, which is the foundation for this issue. The issue is accordingly answered against the Petitioner.

*Issue No. 13:—*

This issue, too, is answered against the Petitioner as it has been given up by the learned counsel for the Petitioner and as there is no evidence in connection with the charge made in paragraph 11(i) and sub-paragraph 11(i)(1).

*Issue No. 14:—*

This issue rests on the charges made in sub-paragraph (i to vii) of paragraph 11(j). The charges made in sub-paragraphs (i), (ii), (iii), (v), and (vi) have been given up by the learned counsel for the Petitioner and have not been pressed due to paucity of evidence. The issue concerning this sub-paragraph is, therefore, answered against the Petitioner. The only sub-paragraphs pressed under this issue are numbers iv and vii. I shall deal with them one by one. The charge under sub-paragraph (ii) is stated in this way that an election meeting was convened at Pakhrauli in which Respondent No. 1 told the audience that it was he who was responsible for the restoration of the dismantled Lucknow-Jaunpur railway line and that he had also arranged to get Pakhrauli made a Flag Station, that he would let the scheme materialized only if the voters of Pakhrauli and the surrounding villages voted for him otherwise, he would see that the scheme was finally dropped. The evidence about this Pakhrauli meeting depends on the statements made by P.Ws. 11, 12 and 23. None of these witnesses speak, about the threat said to have been advanced by the Respondent that if the villagers of Pakhrauli and the neighbouring villages did not vote for him he would see that the scheme was dropped altogether. According to these three witnesses the Respondent simply made a promise to have a railway station constructed at Pakhrauli if the public of the locality voted for him and in this connection he referred to his previous achievement when the Lucknow-Jaunpur railway lines were restored, sometimes, in 1953 or 1954. Now, it will not amount to a corrupt practice if Respondent had made only a promise of public action and, accordingly, I have to find out whether any threat, open or veiled was given out by the Respondent in this meeting at Pakhrauli. I have already discussed the evidence of these witnesses. P.W. 11 was a worker of Shrimati Savitri Devi who had stood against the Congress and was also her polling agent. He realized the speech to be an objectionable one and yet he did not protest to the Respondent or to the other speakers. He is a chance witness as he had no occasion to be present at Pakhrauli. He was going to Sultanpur and on the way he saw a crowd at Pakhrauli and decided to halt there. According to him he was going to Sultanpur, six miles from his village, for purchasing foodgrains, but, from that meeting he went out to other villages for the purpose of canvassing and did not go anywhere to purchase the foodgrains which was his mission when he started from home. P.W. 12 is a member of the Praja Socialist Party. It is strange

that during the election days he would attend only one meeting which was at Pakhrauli and no other. He admits in his cross-examination that except hearing the speeches given by the Respondent and Sri Chandra Bali Pathak, he did not hear any other speech given by anyone during the election. It is a strange chance coincidence that this witness would hear the speeches at one meeting which were incriminatory in nature and would not be present at any other time when so many other meetings were going on during those election days. The last witness is P.W. 23, Dukhi Singh. If any threat of any kind had been advanced by the Respondent in that Pakhrauli meeting this witness would not have admitted in cross-examination that the address made by the Respondent at that meeting was quite fair in his judgment. If there was anything objectionable it would have struck him at once that the Respondent should not have made such a speech. None of these witnesses has recorded anywhere the speech that they had heard at that meeting and it is difficult for me to hold, therefore, that the Respondent went out of his way in giving out threats openly in a public meeting.

The witnesses for the Respondent are R.Ws. 8, Sri Paras Nath Tripathi and R.W. 13, Sri Bihari. The Respondent, himself has stated that he never made any speech in the manner as alleged by these witnesses for the Petitioner and he never held out any threats about abandoning any scheme if the people of the locality did not vote for him. He has also stated and that is borne out by other evidence that no Railway station has yet been built at Pakhrauli. In cross-examination, he has admitted that he performed the inauguration ceremony when railway lines were again laid on the track between Lucknow and Jaunpur but no representation was made to him by the people of the locality that they required a station at Pakhrauli. R.W. 8 is a Headmaster of a Basic Primary Pathshala at Pakhrauli and R.W. 13 is a goldsmith who, too, is a resident of the same place. R.W. 11, as already indicated, was not a person belonging to that locality and so were not P.Ws. 12 and 23. I would rather prefer the evidence of R.Ws. 8 and 13 to that of P.Ws. 11, 12, and 23, and hold, accordingly, that the Respondent or any worker of his never made any speech at Pakhrauli by way of intimating the public of that place or by holding out any promise as indicated in sub-paragraph (iv) of paragraph 11(j).

The next sub-paragraph which has to be considered is sub-paragraph (vii). It is stated in this sub-paragraph that Sri Banke Behari, a paid Bhoodan worker, exercised undue influence over a large number of voters by inducing them to vote for Respondent No. 1 and refrain from voting for the Petitioner under the threat that if they did not do so the lands given to them by and on behalf of Bhoodan Samiti would be taken back. It is stated that this Sri Banke Behari worked for the Respondent in the Lambhua constituency from 1st of February, 1957 to 9th of March, 1957, and hence, according to the Petitioner's case Sri Banke Behari held out this threat to the electorate in Lambhua constituency within this period. There is only one witness in support of this allegation and he is P.W. 11, Sri Sarju Prasad Misra. He has said that Banke Behari asked him to work for the Respondent but when he went on doing the work for Shrimati Savitri Devi he threatened him saying that he would get the Pattas given by the Bhoodan Samiti cancelled. There is no material to find how Banke Behari could exert any influence getting the Patta given to this witness cancelled. The witness possess only one bigha of land and he admits that his desire was to see that no body for the Congress succeeded in the election from his circle. It will be too dangerous to depend upon the evidence of such a witness to hold that Sri Banke Behari exercised undue influence or held out threats in the Lambhua constituency. There is no evidence further that the Respondent No. 1 had consented to this alleged action of Sri Banke Behari. I feel no hesitation, therefore, to discard this charge against the Respondent and hold that both the two charges under the two sub-paragraphs have not been substantiated and that they are untrue. The issue No. 14 is also answered against the Respondent.

Issue No. 15:—

This issue is based upon paragraph 11(k), sub-paragraph (i), (ii) and (iii). Admittedly, there is no evidence in support of the charge made in sub-paragraph (i) and the charge made in sub-paragraph (iii) is extremely vague and lack in particulars. These have not been pressed by the learned counsel for the Petitioner and I hold, accordingly, that the allegations of threats and pecuniary gratification mentioned in the two sub-paragraphs have not been substantiated.

I shall now turn to sub-paragraph (ii). It is stated in this sub-paragraph that Sri Deo Kali Din Sharma, as President of the District Board, deputed Sri Jagga Dass (R.W. 22) to canvass in support of the Respondent among the Harijans.



and, R.W. 22, with others, at Abhayya Kalan and six other places on different dates, between the 4th and 8th of March, 1957, gave out that if the Harijans did not vote for the Respondent the educational and other facilities granted to the Harijans by the Government would be withdrawn and that he, himself, would lose his job. According to the Petitioner, if Sri Jagga Dass and others had not made such speeches at Abhayya Kalan, Lambua etc., the Harijans would have voted for the Petitioner and not for the Respondent. Again, the only witness in support of this charge is Sri Ram Dhan (P.W. 13), I have already disbelieved the story of canvassing by Sri Jagga Dass when discussing the issue No. 8. I have found that issue against the Petitioner. P.W. 13 has deposed of the speech of Jagga Dass only at one meeting i.e. at Abhayya Kalan. On the other hand, Sri Jagga Dass has been examined to discredit the testimony of P.W. 13. Sri Deo Kali Din Sharma, R.W. 1, has also deposed that he never asked Jagga Dass to make such speeches. R.W. 20, Sri Gur Prasad Singh, has also denied the allegations. I am not in a position therefore, to accept the uncorroborated testimony of P.W. 13, alone when it is stoutly denied by Jagga Dass, himself, and his evidence, on close scrutiny, I find to be a reliable one. I hold, accordingly, that there was no speech given by Sri Jagga Dass as alleged by the petitioner. This issue, too, is answered in the negative against the Petitioner.

*Issue No. 16:—*

This issue rests on the allegations made in paragraph 11(L). Paragraph (L) can be divided into two parts. In the first part of this paragraph it is said that the Respondent, Sri Deo Kali Din Sharma, Shrimati Prabhawati Misra, Sri Ram Narain Misra, Sri Gur Prasad Singh and some Congress candidates in the Musafirkhana constituency obtained assistance from the Agriculture Inspector of Musafirkhana, the Panchayat Secretary of Kallyanpur, the branch Post Master of Garab Pur, inasmuch as the Agriculture Inspector was called to Lambua to influence the voters in favour of the Respondent and the Branch Post Master and the Sarpanches mentioned worked as polling agents. There is not a little of evidence about this charge. The second part of the paragraph relates to an alleged use of the District Board station wagon by Sri Deo Kali Din Sharma, the then President of the District Board and his passing orders to the District Board School teachers of Pakhrauli Lohramau, Badain, Madanpur, Lambua and other places to close their schools after mid day intervals for canvassing in support of Respondent No. 1. There is only one witness relating to this charge and he is P.W. 12. His evidence is not strictly in accordance with the charge mentioned in this part of the paragraph. He states, in general, that one month before the election Sri Deo Kali Din Sharma came in a car and addressed two or three teachers at Loharamau school to close it in the interval from the next day as canvassing was to be done for the Respondent. He also asked the teachers to come to the District Board on the 4th day because there was going to be a meeting of all the school teachers of the District. About this allegation there is no mention in paragraph 11(L). This witness has further stated that the teachers were to be told about the programme of the Respondent, in that meeting. About this also there is no mention in this paragraph 11(L). Sri Deo Kali Din Sharma has repudiated this charge by saying that he did not ask any teacher to help the Congress and that he did not hold any meeting asking the teachers to close the schools and to do the election work.

About the use of the Station-wagon, R.W. 1 admitted that one man had complained against him about the use of the station-wagon for Congress election purposes before the District Magistrate who, however, found the complaint to be untrue, after making an enquiry into the matter. He has also given an explanation how the station-wagon of the District Board was taken by the District Magistrate. It is clear from his evidence that the District Magistrate did not remove the station-wagon from the custody of the President of the District Board, but, for District Election purposes, it was taken on hire on payment of Rs. 20 per day. Accordingly, I am not in a position to believe the uncorroborated testimony of P.W. 12 alone on this charge. I hold that the Petitioner has failed to prove this charge and that no corrupt practice was committed as alleged in paragraph (L). Issue No. 16 is answered in the negative against the Respondent.

*Issue No. 17:—*

This issue rests upon paragraph 11(m) and relates to the publication by the Government of India of a postage stamp. No evidence has been led on this charge and the learned counsel for the Petitioner has not pressed it. The issue is, accordingly, answered against the Petitioner.

Issue No. 18:—

This issue rests upon a charge described in paragraph 11(n) of the Petition. It is alleged that there was one Pahari Gujar who was working for the Petitioner and wielded considerable influence in the neighbouring villages and among the Gujar. The Respondent No. 1, his agents, workers, supporters, and canvassers attempted to influence him for refraining from working for the Petitioner, but, when they did not succeed, he was either abducted or killed by the Respondent No. 1, through his agents and workers, on 17th February 1957. Before his abduction or death, it is said, Pahari Gujar had told Sri Jagat Narain Tewari (P.W. 17) that he had learnt reliably about an attempt on his life or an attempt to get him abducted. Lastly, it is said, that since 17th February 1957 Pahari Gujar remained untraced and, although, an application was filed before the Superintendent of Police of Sultanpur by the brother of Pahari Gujar, no action was taken by him. It has been argued, on behalf of the Petitioner, that the Respondent and his workers had sufficient motive either to abduct or kill Pahari Gujar as he was an active worker for the Petitioner. Pahari Gujar told of the threats advanced by the Respondent's party to P.W. 17 and has not yet been heard of since 17th of February, 1957. From these circumstances I am asked to conclude that Pahari Gujar had either been abducted or killed by the Respondent, through his agents and workers. The witnesses upon this point, on behalf of the Petitioner, are P.W. 5, Ram Pal Pande, and P.W. 17, Jagat Narain, P.W. 5 simply states that Pahari Gujar was working for the Petitioner and also for another candidate, Sri Awadesh Narain Singh, for whom the witness was also working at that time. The witness saw him (Pahari Gujar) for the last time on 17th of February, 1957, at about 10 p.m., and since then he has not been heard of. This witness does not speak of any threat put to Pahari Gujar by anyone. Nor does he say that Pahari Gujar was an active worker and wielded considerable influence in the neighbouring villages and among the Gujar. P.W. 17 has deposed about the alleged threat. He has said that he last met him on the 15th of February, 1957, and had a talk with him. In that talk Pahari told him that he was threatened with death because he was working for the Petitioner. He, too, does not mention that Pahari was an active worker of the Petitioner and that he had considerable influence in the locality or among the Gujar. The Petitioner was the best person to depose what kind of work was being rendered by the Pahari Gujar, but, he has not chosen to come to the witness box. There must have been many workers like Pahari Gujar who had been working for the Petitioner, but, there is no reason why the Respondent and his workers would focus their attention on Pahari Gujar alone to remove him from the locality either temporarily or permanently. The evidence of P.W. 5 does not lead us anywhere and about the alleged threat said to have been given by the party of the Respondent there is only one witness, i.e. P.W. 17. He, too, is not a witness of a direct threat having been given to Pahari Gujar by anyone, but, he had said to have simply heard of it from the said Pahari. The allegation has been denied and R.W. 20 has stated in cross-examination that he was unaware of Pahari Gujar having seen influence on members of his own community. He also said that one Shamshuddin was not on good terms with Pahari and that he asked the villagers to try for a restoration of a cordial relationship between them. The other three witnesses on behalf of the Respondent are R.Ws. 17, 18 and 19. R.W. 17, produced the original First Information Report said to have been drawn up on the statement of one Khaliq. P.W. 18 produced the General Diary of the case which was based and which had started on this First Information Report. R.W. 19, a constable clerk, has proved the First Information Report and the signature of Khaliq and these have been marked Exhibits D and D-1 respectively. This witness has further proved the General Diary which has been marked Exhibit (E). The only criticism against this witness was that he got copies made of the First Information Report and the General Diary from before hand, although, he had not been asked to do so in the summon. A suggestion was thrown to him that he recorded something quite different from what Khaliq has stated and that the signature Exhibit D-1 was not a genuine one. These suggestions are simply fantastic. This witness was not in a position to forge the signature or manufacture a document for the purpose of this case when the documents rested upon a complaint made in the year 1957. From the First Information Report it appears that Khaliq is a brother of Pahari Gujar. He (Pahari) is reported to have gone to village Shiv Pura at 9 p.m. on the night of 17th of February, 1957, and since then he did not appear. In this First Information Report it is said that Pahari's wife had illicit connection with Shamshuddin and there was dispute between him and Pahari a few days prior to his disappearance. The informant suspected Shamshuddin, the wife of Pahari, and one Ashraf Gujar to be the murderers of his brother. It is important to note in this connection that the disappearance was from 17th February 1957 and the First Information Report was recorded on 4th of March, 1957, about three weeks later.

If there was any truth in the suggestion that the Respondent No. 1 or his workers had either killed or abducted Pahari it was not likely that a full brother of Pahari would exonerate them and substitute in their place Shamshuddin, the wife of Pahari and another man as the persons being responsible for his brother's murder or disappearance. There is no proof that any Petition was moved before the Superintendent of Police. The Superintendent of Police has been examined in this case as R.W. 14 and no question was put to him about this matter. The investigation of the case did not reveal that Pahari's disappearance had anything to do with the election or the Respondent's party. I have no hesitation, therefore, to hold that the charge is a false one and there is not an iota of evidence in support of the charge. Accordingly, I decide this issue against the Petitioner holding that the allegation contained in this paragraph 11(n) are not correct. I further hold that on this finding there is no question of the validity of the election being affected.

*Issue No. 19:—*

This issue rests upon the paragraph 11(o) of the Petition which states that the return of election expenses filed by the Respondent is incorrect and false in material particulars. No evidence has been led on this issue and has been given up by the learned counsel for the Petitioner. I hold, accordingly, that the election of the Respondent has not been rendered invalid by alleged submission of an incorrect or false return of election expenses.

*Issue No. 20:—*

This issue is based upon paragraph 11(p) of the Petition. It has been alleged in this Paragraph that one Sri Ghor Pade was the Private Secretary of the Respondent and an employee of the Central Government, but, he came with the Respondent to Sultanpur, stayed with him and was incharge of the Respondent's election. It is significant that this paragraph lacks the essential particulars, but, the Petitioner has attempted to fill up the deficiency by examining witnesses who have stated that the Respondent had converted the Dak Bungalow, which is the same as the Inspection-Bungalow Sultanpur, into his Election Office, that Sri Ghor Pade was living in this building and carrying on the work of the Respondent's election in one of the room, and had, actually, gone to the District Election Office to get a copy of a list of Polling Stations, which is proved by Exhibit 10, his signature, in a register kept at the District Election Office. There was no whisper anywhere in paragraph 11(p) about Respondent holding his private Election Office in the building of the Inspection bungalow, or, Sri Ghor Pade obtaining a copy of the list of polling stations from the District Election Office. The fact about Sri Ghor Pade having brought the list from the District Election Office has not been challenged by the Respondent, but, an explanation has been rendered by him in this way that on that day he had stopped at a little distance from the District Election Office to speak to certain Congress workers and had requested Sri Ghor Pade to go ahead to the District Election Office and bring the list to him. It has been vehemently urged on behalf of the Petitioner that this explanation is a new one which had not been made out by the Respondent in his written statement, and for this reason the explanation should be discarded and it should be held that Sri Ghor Pade was helping the Respondent in his election work. The Respondent could have been blamed in this manner if there was any mention about the obtaining of the list of polling stations by Sri Ghor Pade in the Petition. As this piece of information was for the first time brought out in the statements of the Petitioner's witnesses, no blame can be attached to the Respondent if he has found it fit to reply to it by giving his denial and providing for a believable explanation. The Petitioner has proved Exhibits 15 and 16 series, Travelling Allowance Bills of Sri Ghor Pade, to show that Sri Ghor Pade was moving about between Sultanpur, Lucknow, Allahabad and Delhi on those dates. Exhibit 15-4 shows that Sri Ghor Pade was halting at Sultanpur from 22nd February, 1957 to 9th of March, 1957. This is also not denied and the Respondent has stated in his cross-examination that Sri Ghor Pade used to stay at the Dak Bungalow with him, and that he happened to be there on his duty to look after his official and personal work. He had made it clear that that personal work did not include anything done for the election purposes, that during the election days he, the Respondent, was attending to his official work also as he used to get files and telephone calls and attend to them. Naturally he had his office at the Dak Bungalow and Sri Ghor Pade was also there to look after his official work and also his personal work excluding any work connected with the election. The presence of Sri Ghor Pade, therefore, from 22nd February,

1957 to 9th of March, 1957 at the Inspection Bungalow of Sultanpur, does not necessarily give rise to an inference that he was carrying on the election work of the Respondent.

Conscious of this weakness in the charge as mentioned in paragraph 11(p) the Petitioner has examined several witnesses to show that the Inspection-bungalow was used as the private Election Office of the Respondent. As already stated this fact has not been mentioned in paragraph 11(p). The Respondent has denied and his other witnesses have stated that his election work was being conducted mainly from the Central Election Office situated at Sultanpur City and his other election work was being carried on in the private office of the Congress candidate who was contesting the election from the constituency for a seat in the Legislative Assembly. The witnesses for the Petitioner, in this connection, are P.Ws. 21, 24 and 25. P.W. 21 stated in examination-in-chief that Sri Ghor Pade was working for the Respondent in his election and his office was at Sultanpur Dak Bungalow. This witness was canvassing for a Praja Socialist Party candidate. In cross-examination, he was unable to give the day or the date when he visited the Dak Bungalow. According to him he accompanied Sri Rudra Pal Misra to the Dak Bungalow. It is difficult for me to believe that Rudra Pal would bring a worker of a rival party, although, not contesting for a seat in the Parliament, with him to a place where election work was being surreptitiously carried on by the Congress party. The witness says that Rudra Pal knew him very well that he was a worker for the Socialist Party and also knew that he (witness) did not want the Congress to be victorious in the election. According to the witness he stayed at the Dak Bungalow only for two or three minutes and even saw Rudra Pal taking the notice, Exhibit 2, which was of a very incriminating nature. The next witness is P.W. 24, the District Secretary of the Praja Socialist Party at Sultanpur. He has said that Sri Ghor Pade was in charge of the election office of the Respondent, which was situated in the Dak Bungalow. From his cross-examination, it appears, that he was very much against the Congress and, admittedly, he belonged to a rival party. Strongly enough, although, he got information from Congress-workers that they were visiting the Dak Bungalow to get papers and money, he never chose to go there in order to check up the news received by him. He knew that the Dak Bungalow was a Government property and that holding of an election office there was objectionable, yet he did not complain to any authority. As an explanation he has said that he did not complain either orally or in writing about this irregular practice because the Government servants themselves were party to it. There was no complaint, however, made to the Election Commission who had nothing to do with the Local Government servants. There was also no hurdle preventing this witness from informing the public about this corrupt practice through the medium of a newspaper. The last witness on the subject is P.W. 25, who is far from being called an independent one. Admittedly, he and his wife were expelled from the Congress, his wife was refused a Congress ticket in the last election and she was at that time contesting a seat in the Assembly as an Independent Candidate fighting the candidate set up by the Congress. The witness has said that the election work of Dr. Keskar used to go on in the room occupied by Sri Ghor Pade. In cross-examination, he has said, that Sri Ghor Pade had come to him twice and asked him to go to the Inspection-bungalow in order to see the Respondent who had suggested that both he and his wife should not oppose him in his parliamentary constituency. He has further said that he saw Sri Ghor Pade distributing posters, notices, papers, pencils, and cash to the workers. He has admitted that such acts by or on behalf of the Respondent was improper and illegal and must have been affecting the interest of the rival candidates. But, strangely enough, he did not complain to any authority for utilizing a Government property and obtaining the services of a Government servant. He even, did not protest to Sri Ghor Pade as to why he was doing the election work for the Respondent there. When asked about his conduct in not bringing the matter to the notice of the authorities the witness has said that the District Magistrate and other high officers were working for Dr. Keskar. He went even so far as to say that the District Magistrate and the Superintendent of Police were dishonest persons, but, he had to admit that he did not send any complaint in writing either to the Election Commission or to the President of India. I am not inclined to believe another explanation of this witness as to why he did not complain to the Election Commission and to the President of India because he himself was not concerned. According to his own admission this illegal practice was affecting the interest of rival candidates and must have been affecting the interest of his wife as well. In any case, nothing prevented him from publishing the matter in the newspaper when the election work was going on in the Inspection-bungalow not for a day or two but for about a fortnight, according to the evidence of the witnesses.

Apart from the denial by the Respondent (R.W. 26) there is also the denial by R.Ws. 1, 11, and 20. It is true that they are men belonging to the Congress organization but they held important posts in connection with the Congress election in that constituency and were, therefore, persons competent enough to say if the Inspection-bungalow had been converted into a private Election Office of the Respondent. R.W. 1 was the Director of Congress Elections in that district. R.W. 11 was the President of the District Congress Committee of Sultanpur, during that time and R.W. 20 was, at the relevant time, the General Secretary of the District Congress Committee. I hold, accordingly, that there was no election office of the Respondent in the Inspection-bungalow at Sultanpur and no election work was being carried on on his behalf from that place.

P.Ws. 16 and 20 are the clerks of the District Election Office at Sultanpur. P.W. 20 has proved Exhibit 10. From Exhibit 10, and from the evidence it appears that it was Sri Ghor Pade who was delivered a list of polling stations and that Sri Ghor Pade had received it for the Respondent. This fact, alone, does not prove that Sri Ghor Pade was assisting the Respondent in his election work. The explanation given by the Respondent and R.W. 20 may or may not be true but there is nothing to show that a stray act of this nature amounted to an assistance rendered within the meaning of section 123, sub-section (vii) of the Representation of the People Act. I fail to understand how an act of this kind can be construed as one done in furtherance, of the prospects of a candidate's election. Sri Ghor Pade was the Private Secretary of the Respondent and was looking after his official and personal work excluding any working connection with the election. Even if it is conceded for a moment that coming to the petrol pump and getting down there was an afterthought and that the Respondent had asked Sri Ghor Pade at the Inspection-bungalow to go and fetch a list of polling stations from the District Election Office it cannot be argued that he made use of a Government servant for the furtherance of his prospects in his election. It has further been urged in this connection that Sri Ghor Pade had also come to the District Election Office to submit the return of election-expenses. P.W. 16, has, however, said that he is not definite whether the Private Secretary of the Respondent came to submit the returns. He has said that he saw the Private Secretary coming to the election office once or twice during the election but at the same time added that he could not say for what purpose he came. It is possible, as, explained by the Respondent, the Private Secretary might have come to the District Election Office as well as might have gone to the District Congress Office in search of him in connection with the matters which had nothing to do with the election. Similarly, P.W. 20 said in his examination-in-chief that during the election the Private Secretary of the Respondent used to come to the election office but could not say for how many times he visited it. He also could not give the time and date of his visits to this office. In my judgment, a mere rendering of assistance by a Government servant to a candidate does not amount to a corrupt practice. It must be shown that the assistance was so rendered for the furtherance of the prospects of the candidate's election. A few casual visits to the District Election Office by Sri Ghor Pade which can be reasonably explained away cannot be construed as rendering of assistance in the election-work. I hold, accordingly, that the Petitioner has failed to prove his allegation contained in paragraph 11(p) of the Petition and that the Respondent did not utilize the services of Sri Ghor Pade, a Government servant, in his election work, during his stay at the Inspection-bungalow of Sultanpur. This issue, too, is answered in the negative against the Petitioner, and I hold that the validity of the election has not been effected in any manner whatsoever.

*Issue No. 21.—*

This issue rests upon paragraph 11(q) which on account of lack of evidence has been given up by the learned counsel for the Petitioner. Accordingly, this issue is answered in the negative against the Petitioner.

*Issue No. 22.—*

This issue rests on the contention put forward in paragraph 12 of the Petition. It says that the Respondent had taken recourse to fraud, intentional misrepresentation, corrupt practices and electoral offences and had also not complied with the provisions of the Constitution of India, and the Representation of the People Act, and the rules made thereunder, for which the result of the election has been materially affected. It is also stated that if the votes would not have been obtained by the Respondent No. 1 by means of corrupt practices and electoral offences the Petitioner would have obtained a majority of valid votes. This paragraph is more in the nature of summing up the contents of the Petition and of submission made by the Petitioner with respect to the result of the Election. I hold that as the particulars given in the Petition have not been substantiated and as

the Respondent has not been found to have committed any corrupt practice or an electoral offence, or found guilty of fraud or intentional misrepresentation. the result of the election has not been affected in any manner. This issue, too, is decided against the Petitioner.

In conclusion, I want to add a few sentences, although, I may have to repeat some of the observations made earlier in my judgment. In a case of this nature when the finding regarding a corrupt practice entails an electoral punishment a high degree of proof is necessary. It has been held in many cases that charges of corrupt practices are of a quasi-criminal nature and, accordingly, the burden of proof is strictly upon the Petitioner. This burden, in the present Election Petition case, the Petitioner has miserably failed to discharge. There is hardly any corroboration of the oral testimony of the Petitioner's witnesses. With respect to many of the charges the evidence has been very scanty. The Constituency was one where candidates of different vocations in life stood for the Assembly or the House of the People and the organisations rival to that to which the Respondent belonged could not have been blind to the alleged corrupt practices which were said to have been going on under their very noses for some appreciable time. No complaint was made to any authority, who could check the alleged corrupt practices immediately. Explanations have been given for the absence of such complaints which have been found to be totally devoid of reasons. There is no evidence worth the name that the high Government Officers of Sultanpur district were backing the Respondent on his election, that they were impervious to the complaints made by candidates of other parties and who went to the length of exposing themselves to severe disciplinary actions which would have blasted their careers. Even if these District Officers were under the control of the Respondent or the Congress organization there is no satisfactory explanation why the candidates affected by the alleged partiality of the Government Officers did not go higher up in bringing the matter to the notice of the Election Commission or ventilate their grievances in the daily and weekly newspapers of the district. It is not the case of the Petitioner that the Press of the locality had been muzzled and they could not dare publish the speeches which were uttered by the Respondent and his workers in open defiance of the provisions of the Representation of the People Act. Besides the Press of the district there were other newspapers scattered over all the country which would have published these allegations without any special efforts being made by the candidates who had been affected. The candidates were not unsophisticated villagers who would be cowed down by the presence of the Government Officers. Persons who had taken part an interest in the election were lawyers and veteran fighters of many elections and, although, some of them chose to publish in the local newspapers something unimportant in relation to election, they did not chose to publish matters which were vital to their interests and welfares. They contended to themselves by remaining passive observers to the numerous irregular and illegal practices committed by or on behalf of the Respondent. There is not a single witness, on behalf of the Petitioner, who, could be called as an independent and totally disinterested in this case or in the election. On the other hand, I have found the evidence of the witnesses on behalf of the Respondent to be of far better credibility, as, some of them have no predilection towards any party, and, those who have, are competent ones for the purpose of denying the charges. It is true that some persons against whom allegations have been directed by the Petitioner, such as, Kunwar Rananjaya Singh, Sri Rudra Pal, Sri Rama Kant, Sri Ghor Pade, have not been examined, but, no adverse inference can be drawn against the Respondent for their non-examination, when there was no burden cast upon the Respondent to discredit the allegations or charges which have not been proved. In any event the Petitioner has to stand or fall by the strength of his own evidence and not through the weakness, if any, of the evidence supplied by the Respondent.

After giving the entire evidence my anxious consideration I hold under section 98 of the Representation of the People Act, that there is no merit in this Election Petition and I, therefore, direct the same to be dismissed forthwith. Under section 99 of the Act I make this observation that no corrupt practice has been proved to have been committed by the Respondent or his agents or with his consent or with the consent of his agents. I accordingly, direct that the Petitioner should pay the Respondent No. 1, a sum of Rs. 500 towards costs of this Petition. The 9th March, 1959.

(Sd.) K. K. BANERJI  
Member,  
Election Tribunal, Uttar Pradesh,  
Allahabad.

[No. 82/451/57/6320.]  
DIN DAYAL, Under Secy.

**MINISTRY OF HOME AFFAIRS**

*New Delhi, the 4th April 1959*

**S.O. 798.**—In exercise of the powers conferred by the article 81 of the Constitution of India as modified by the Constitution (Application to Jammu and Kashmir) Order 1954, the President, on the recommendation of the Legislature of the State of Jammu and Kashmir is pleased to nominate Shri Inderjit Lal Malhotra in the House of the People (Lok Sabha) to fill the vacancy caused by the demise of Shri Thakur Dass Malhotra

[No. F.15/1/59-K.]

SHANKAR PRASAD, Secy.

*New Delhi, the 4th April 1959*

**S.O. 799.**—In exercise of the powers conferred by section 8 of the Preventive Detention Act, 1950 (4 of 1950), and in partial modification of the notification of the Government of India in the Ministry of Home Affairs, No. S.R.O. 3538 dated the 27th November, 1954 (as amended by notifications Nos. S.O. 1728 dated the 22nd August, 1958 and S.O. 50 dated the 5th January, 1959) constituting an Advisory Board for the purposes of the said Act, the Central Government hereby—

- (1) appoints the Hon'ble Mr. Justice A. N. Bhandari, Chief Justice of the Punjab High Court, as a member of the Advisory Board in the place of the Hon'ble Mr. Justice Bishan Narain; and
- (2) further appoints the Hon'ble Mr. Justice A. N. Bhandari as the Chairman of the Advisory Board in the place of the Hon'ble Mr. Justice G. D. Khosla, who will continue to be a member of the Advisory Board.

[No. 44/3/59-Poll(I).]

N. SAHGAL, Jt. Secy.

**MINISTRY OF FINANCE**

**(Department of Expenditure)**

*New Delhi, the 18th April 1959*

**S.O. 800.**—In exercise of the powers conferred by Sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendments in the Schedule to the notification of the Government of India in the Ministry of Finance (Department of Expenditure) No. S.R.O. 639, dated the 28th February, 1957, namely:—

In the said schedule, in Part II—General Central Service, class III, under the heading 'Railway Audit Offices', for the existing entries in columns 2 to 5 against 'Subordinate Railway Audit Service' in column 1, the following shall be substituted, namely:—

2	3	4	5
Chief Auditor.	Chief Auditor.	All	Comptroller and Auditor General.
	Deputy Chief Auditor.	(i) to (iii)	Chief Auditor.

R. K. RANGAN, Dy. Secy.

## (Department of Economic Affairs)

New Delhi, the 8th April 1959

S.O. 801.—Statement of the Affairs of the Reserve Bank of India, as on the 3rd April, 1959.

## BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up . . . . .	5,00,00,000	Notes . . . . .	15,41,74,000
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	3,39,000
National Agricultural Credit (Long-term Operations) Fund . . . . .	25,00,00,000	Subsidiary Coin . . . . .	4,90,000
National Agricultural Credit (Stabilisation) Fund . . . . .	3,00,00,000	Bills Purchased and Discounted :—	
<b>Deposits :—</b>		(a) Internal . . . . .	..
(a) Government		(b) External . . . . .	..
(1) Central Government . . . . .	60,60,94,000	(c) Government Treasury Bills . . . . .	23,11,10,000
(2) Other Governments . . . . .	11,83,53,000	Balances held abroad* . . . . .	36,32,36,000
(b) Banks . . . . .	73,07,86,000	**Loans and Advances to Governments . . . . .	31,26,03,000
(c) Others . . . . .	18,92,80,000	Other Loans and Advances† . . . . .	97,85,52,000
Bills Payable . . . . .	29,60,41,000	Investments . . . . .	231,46,45,000
Other Liabilities . . . . .	41,01,38,000	Other Assets . . . . .	12,55,43,000
<b>TOTAL . . . . .</b>	<b>448,06,92,000</b>	<b>TOTAL . . . . .</b>	<b>448,06,92,000</b>

\*Includes Cash &amp; Short term Securities. \*\*Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 11,32,24,000/- advanced to scheduled banks against usance bills under Section 1 (4) (c) of the Reserve Bank of India Act.

Dated the 8th day of April, 1959.



An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 3rd day of April 1959.

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department . . . .	15,41,74,000		A. Gold Coin and Bullion :—		
Notes in circulation . . . .	1744.31,39,000		(a) Held in India . . . .	117,76,03,000	
Total Notes issued . . . .		1759,73,13,000	(b) Held outside India . . . .	..	
			Foreign Securities . . . .	178,00,89,000	
			TOTAL OF A. . . . .		295,76,92,000
			B. Rupee Coin . . . . .		132,71,24,000
			Government of India Rupee Securities . . . . .		1331,24,97,000
			Internal Bills of Exchange and other commercial paper . . . . .		..
TOTAL—LIABILITIES . . . .		1759,73,13,000	TOTAL—ASSETS . . . . .		1759,73,13,000

Dated the 8th day of April, 1959.

H. V. R. Iengar,  
Governor.

[No. F 3(2)-BC/59].

A. BAKSI, Jt. Secy.

ERRATUM

In the Weekly Statement of the Affairs of the Reserve Bank of India, published under S. O. 548 on page 624 in the Gazette of India, Part II Sec. 3 (ii), dated the 14th March, 1959, the following correction is to be made:—

In the heading of the Statement for the words "Statement of the Affairs of the Reserve Bank of India, as on the 20th February, 1959" read "Statement of the Affairs of the Reserve Bank of India, as on the 27th February, 1959."

## (Department of Revenue)

## CUSTOMS

*New Delhi, the 18th April 1959*

**S.O. 802.**—In exercise of the powers conferred by section 23 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby makes the following further amendments in the notification of the Government of India in the late Finance Department (Central Revenues) No. 33-Customs, dated the 22nd June, 1935, namely:—

In the said notification, in Schedule I—Import Duties,—

- (1) The head 'F. Portuguese India', serial numbers 68, 70 and 73 and the entries relating thereto shall be omitted;
- (2) under the head 'H. Miscellaneous', serial number 77 and the entries relating thereto shall be omitted.

[No. 70.]

**S.O. 803.**—In exercise of the powers conferred by section 23 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby exempts goods imported from Goa into India (a) by sea at a customs port or (b) by a Land Customs Station which are proved to the satisfaction of the Customs Collector or the Land Customs Officer as the case may be, to have been previously imported into Goa from India (a) by sea from any customs port, or (b) by a Land Customs Station respectively, provided—

- (i) that such goods are declared at the time of export from a customs port or from a Land Customs Station as the case may be, as intended for re-importation into India after passing in transit through Portuguese India and that a certificate of such declaration in such form as may be prescribed by the Collector of Central Excise, Bombay, is obtained from the Customs Collector or the Land Customs Officer respectively;
- (ii) that no drawback of duty was obtained at the time of export;
- (iii) that the certificate obtained at the time of the export of the goods is produced on their re-importation into India and that the identity of the goods is proved to the satisfaction of the Land Customs Officer or the Customs Collector as the case may be; and
- (iv) that the goods are re-imported into India within 60 days of the date of the certificate obtained at the place of export within such extended time, not exceeding 180 days, as the Chief Customs Officer may for sufficient reason allow, from the whole of the duty of Customs leviable thereon.

[No. 71.]

**S.O. 804.**—In exercise of the powers conferred by section 23 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby exempts articles other than cinematograph films imported by a Land Customs Station from Portuguese India, when the Collector of Land Customs is satisfied that such articles are being imported into India for a temporary and specified purpose or period after the completion of which they are to be re-exported out of India to Portuguese India or that they are being re-imported into India after having been originally exported to Portuguese India from India for a temporary purpose or period, from the whole of the duty of customs leviable thereon.

[No. 72.]

**S.O. 805.**—In exercise of the powers conferred by section 23 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby exempts Cotton seed imported via Bombay for experimental purposes on behalf of the Maritime Indian States, when certified accordingly by the Secretary, Indian Central Cotton Committee, or by

officers of the respective States enumerated in the second schedule attached to the notification of the Government of India in the late Department of Education, Health and Lands, No. 1213-Agri., dated the 27th May, 1930, from the whole of the duty of Customs leviable thereon.

[No. 73.]

M. C. DAS, Dy. Secy.

## MINISTRY OF COMMERCE AND INDUSTRY

### ORDERS

*New Delhi, the 7th April 1959*

**S.O. 806/IDRA/6/12.**—In pursuance of rule 8 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Shri R. T. Mirchandani, Agricultural Marketing Adviser, Directorate of Marketing and Inspection, Nagpur, as a member of the Development Council for the scheduled industries engaged in the manufacture and production of textiles made of wool, including woollen yarn, hosiery, carpets and druggets, in place of Dr. M. B. Ghatge, who has resigned, and directs that the following amendment shall be made in the Order of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 2820/IDRA/6/12, dated the 31st August, 1957, namely:—

In paragraph 1 of the said Order under the category of members "being persons who, in the opinion of the Central Government have special knowledge of matters relating to the technical or other aspects of the said scheduled industries" for entry No. 14, the following entry shall be substituted, namely:—

"14. Shri R. T. Mirchandani, Agricultural Marketing Adviser, Directorate of Marketing and Inspection, Nagpur."

[No. 4(59)IA(II)(G)/58.]

**S.O. 807/IDRA/6/13.**—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), read with paragraph 1(b) of the Order of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 205, dated the 4th March, 1953, the Central Government hereby appoints Shri Raj Kumar Mehrotra, 8/78, Arya Nagar, Kanpur, as a member of the Development Council established by the said Order for the scheduled industries engaged in the manufacture or production of Soaps, Paints and Plastics, and directs that the following amendments shall be made in the said Order, namely:—

- (i) In paragraph 1 of the said Order under the category of members "being persons who, in the opinion of the Central Government are capable of representing the interests of persons employed in industrial undertakings in the said scheduled industries" after entry No. 18 relating to Shri J. C. Dixit, the following entry shall be inserted, namely:—

"18A. Shri Raj Kumar Mehrotra, 8/78, Arya Nagar, Kanpur."

and (ii) Paragraph 1(b) shall be omitted.

[No. 5(32)IA(II)(G)/57.]

A. K. CHAKRAVARTI, Under Secy.

### (Indian Standards Institution)

*New Delhi, the 1st April 1959*

**S.O. 808.**—In pursuance of the provisions of sub-rule (2) of rule 3 of the Indian Standards Institution (Certification Marks) Rules 1955, the Indian Standards Institution hereby notifies that the Indian Standards given in the Schedule hereto annexed have been established during the quarter ending 31 March 1959.

## THE SCHEDULE

Sl. No.	No. of Indian Standard	Title of Indian Standard
1	2	3
1	IS : 226—1958	Specification for Structural Steel ( <i>Second Revision</i> ).
2	IS : 505—1958	Specification for China-Clay for Rubber Industry.
3	IS : 707—1958	Glossary of Terms Applicable to Timber, Plywood and Joinery.
4	IS : 865—1958	Method for Determination of Colour Fastness of Textile Materials to Decatizing.
5	IS : 910—1958	Specification for Combined Key for Hydrant, Hydrant Cover and Lower Valve.
6	IS : 911—1958	Specification for Braided Air Hose, Heavy Duty.
7	IS : 912—1958	Specification for Braided Air Hose, Light Duty.
8	IS : 913—1958	Specification for Braided Water Hose, High Pressure.
9	IS : 914—1958	Specification for Braided Water Hose, Low Pressure.
10	IS : 916—1958	Specification for 18-Litre Square Tins.
11	IS : 923—1958	Specification for Common Salt for Animal Consumption.
12	IS : 927—1958	Specification for Fire Hooks.
13	IS : 982—1959	Method for Determination of Colour Fastness of Textile Materials to Carbonising with Aluminium Chloride.
14	IS : 983—1958	Method for Determination of Colour Fastness of Textile Materials to Alkaline Milling.
15	IS : 1057—1958	Specification for Commercial Metric Carat Weights.
16	IS : 1067—1958	Specification for Commercial Silver-Plating.
17	IS : 1068—1958	Specification for Copper, Nickel and Chromium Electroplated Coatings.
18	IS : 1131—1958	Specification for Bicycle Bottom Bracket Axle.
19	IS : 1132—1958	Specification for Bicycle Bottom Bracket Adjustable Cup.
20	IS : 1133—1958	Specification for Bicycle Bottom Bracket Fixed Cup.
21	IS : 1134—1958	Specification for Bicycle Bottom Bracket Locking Nut.
22	IS : 1163—1958	Specification for Covering Chocolate.
23	IS : 1164—1958	Specification for Cocoa-Powder.
24	IS : 1196—1958	Code of Practice for Laying Mastic Asphalt Flooring.
25	IS : 1197—1958	Code of Practice for Laying of Rubber Floors.
26	IS : 1198—1958	Code of Practice for Laying and Maintenance of Linoleum Floors.
27	IS : 1201—1958	Methods for Testing Tar and Bitumen : Sampling.
28	IS : 1202—1958	Methods for Testing Tar and Bitumen : Determination of Specific Gravity.
29	IS : 1203—1958	Methods for Testing Tar and Bitumen : Determination of Penetration.
30	IS : 1204—1958	Methods for Testing Tar and Bitumen : Determination of Residue of Specified Penetration.
31	IS : 1205—1958	Methods for Testing Tar and Bitumen : Determination of Softening Point.
32	IS : 1206—1958	Methods for Testing Tar and Bitumen : Determination of Viscosity.
33	IS : 1207—1958	Methods for Testing Tar and Bitumen : Determination of Equiviscous Temperature (EVT).
34	IS : 1208—1958	Methods for Testing Tar and Bitumen : Determination of Ductility.
35	IS : 1209—1958	Methods for Testing Tar and Bitumen : Determination of Flash Point and Fire Point.
36	IS : 1210—1958	Methods for Testing Tar and Bitumen : Float Test.
37	IS : 1211—1958	Methods for Testing Tar and Bitumen : Determination of Water Content (Dean and Stark Method).
38	IS : 1212—1958	Methods for Testing Tar and Bitumen : Determination of Loss on Heating.
39	IS : 1213—1958	Methods for Testing Tar and Bitumen : Distillation Test.
40	IS : 1214—1958	Methods for Testing Tar and Bitumen : Determination of Water Insoluble in Benzene.
41	IS : 1215—1958	Methods for Testing Tar and Bitumen : Determination of Matter Insoluble in Toluene.
42	IS : 1216—1958	Methods for Testing Tar and Bitumen : Determination of Solubility in Carbon Disulphide.
43	IS : 1217—1958	Methods for Testing Tar and Bitumen : Determination of Mineral Matter (ASH).

1	2	3
44	IS : 1218—1958	Methods for Testing Tar and Bitumen : Determination of Phenols.
45	IS : 1219—1958	Methods for Testing Tar and Bitumen : Determination of Naphthalene.
46	IS : 1220—1958	Methods for Testing Tar and Bitumen : Determination of Volatile Matter Content.
47	IS : 1224—1958	Determination of Fat in Whole Milk, Evaporated (Unsweetened) Milk, Separated Milk, Skim Milk, Buttermilk and Cream by the Gerber Method.
48	IS : 1248—1958	Specification for Electrical indicating instruments.
49	IS : 1256—1958	Code of Building Byelaws.
50	IS : 1258—1958	Specification for Bayonet Lampholders.
51	IS : 1263—1958	Specification for Cocoa Butter.
52	IS : 1271—1958	Classification of Insulating Materials for Electrical Machinery and Apparatus in Relation to their Thermal Stability in Service.
53	IS : 1272—1958	Specification for Coal Tar Solvent Naphtha, Light, Grade 2.
54	IS : 1273—1958	Specification for Leather Pump Buckets Made from Chrome Tanned Leather.
55	IS : 1276—1958	Specification for Grease S. No. 2.
56	IS : 1278—1958	Specification for Filler Rods and Wires for Gas Welding.
57	IS : 1279—1957	Specification for Electrically Welded Mild Steel Boiler and Superheater Tubes.
58	IS : 1280—1958	Specification for Foundry Moulding Boxes.

[No. M.E.C/11(2).]

C. N. MODAWAL, Dy. Director (M.E.C.)

## COLLECTORATE OF CENTRAL EXCISE, CALCUTTA

### CENTRAL EXCISE

*Calcutta, the 1st April 1959*

**S.O. 809.**—In exercise of the powers conferred on me under Rule 173 of the Central Excise Rules, 1944, read with rule 233 *ibid*, I hereby order that licensees of private bonded warehouses for un-manufactured tobacco *where no processing is done* shall maintain henceforth warehouse registers in the appended form in lieu of Parts I, II and III of W.R.G. 2 (C.E. Series No. 81) as done hitherto provided that such licensees will have the option to maintain records in the statutory form if they find it convenient to do so.

2. This Collectorate Central Excise Notification No. 5/1958, dated the 8th April, 1957 is hereby cancelled.

## "WAREHOUSE REGISTER"

*To be Maintained by a licensee of a private bonded warehouse for Unmanufactured Tobacco where no processing is done*  
 Situation of Warehouse ..... Name of Licensee ..... No. and Date of Licence .....

Serial No.	Date	Name and address of licensee from whom received or to whom sold (give L. 5 No. also)	No. and date of transport permit or certificate	RECEIPTS							Room or place in which deposited	ISSUES									Loss in Storage	Gain in Storage	Balance in Stock in warehouse		REMARKS
				No. and description of packages	Marks and Nos.	Gross weight	Description of tobacco including local name of variety	Net weight	Rate of duty	Amount		Type, number and date of clearance application	Number and date of relative receipt entry	No. and description of packages	Marks and numbers	Gross weight	Description of tobacco including local name of variety	Net weight	Rate of duty	Amount			Number of packages	Net weight	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26

NOTE.—(1) Receipts and issues should be shown on separate lines and the balance struck.

(2) Loss or gain in storage as ascertained by the licensee at the time of clearance should be entered in columns 22 or 23 as the case may be.

[No. 5/1959.]

**S.O. 810.**—In exercise of the powers conferred on me by rule 5 of Central Excise Rules, 1944, I hereby empower the Central Excise Officer, specified below, to exercise the powers of Collector under the rule enumerated in column 2 of the Table subject to the restrictions set out in column 3 thereof:

Rank of Officer	Relevant rule in respect of which power is delegated	Restrictions, if any
1	2	3
Assistant Collector of Central Excise	12---A	The power to grant rebate in respect of exports under rule 12-A through the major ports shall be exercised by Collector.

[No. 6/1959.]

S. P. KAMPANI, Collector.

### OFFICE OF THE ASSISTANT COLLECTOR OF CENTRAL EXCISE GOA FRONTIER DIVISION, BELGAUM

#### NOTICE

Belgaum, the 4th April 1959

**S.O. 811.**—Whereas it appears that the marginally noted goods which

1. Kamblies	52	were seized by the S.R.P. party and
2. Umbrellas	36	Customs Matna at a place known as
3. Gunny bags	11	Borkyache Temb in the vicinity of the
4. Bangles	34	Indo-Goa Border on 23rd May, 1957, were
	Bundles.	about to be exported by land to Goa
5. Rice grams, onions, etc.	4½	(Portuguese territories in India) in contra-
	Secrs	vention of Section 5(1) of the Land
6. Old Utensils	2	Customs Act, 1924 and the Government of
		India Ministry of Commerce and Indus-

tries Export Control Order No. 1/54 dated 10th May, 1954, issued under Section 3 of the Imports and Exports Control Act, 1947 and further deemed to have been issued under Section 19 of the Sea Customs Act, 1878 (in respect of items 1, 2, 3, 4, 5 noted in the margin).

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs, Goa Frontier Division, Belgaum why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924, read with Section 167(8) of the Sea Customs Act, 1878 and the old utensils under Section 168 of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

3. If such a owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)15-344/57.]

E. R. SRIKANTIA,  
Asstt. Collector of Central Excise and Land  
Customs, Goa Fr. Division, Belgaum.

### CENTRAL EXCISE COLLECTORATE, DELHI

#### CENTRAL EXCISE

New Delhi, the 7th April 1959

**S.O. 812.**—In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules, 1944, I empower the officers of Central Excise Collectorate,

Delhi, specified in column 1 of the subjoined table to exercise within their jurisdiction the power of Collector under the Rule shown in column 2.

TABLE

Rank of Officer	Central Excise Rules	Limitations if any
Superintendents	212	To direct destruction of confiscated tobacco upto a quantity of 25 standard maunds, which due to its deteriorated condition fails to attract bidders to purchase it either on payment of duty or for rewarehousing.

[No. C. V(a)7/4CE/59]6364.]

B. D. DESHMUKH, Collector.

**MINISTRY OF STEEL MINES AND FUEL**  
(Department of Mines and Fuel)

*New Delhi, the 6th April 1959*

**S.O. 813.**—In exercise of the powers conferred by sub-section (2) of section 4 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952), the Central Government hereby re-appoints Shri S. S. Grewal, Chief Inspector of Mines in India, to be a member of the Coal Board with effect from the forenoon of the 2nd April, 1959.

[No. C5-1(8)/59.]

CHHEDI LAL, Dy. Secy.

(Department of Iron and Steel)

*New Delhi, the 11th April 1959*

**S.O. 814/ESS.COMM/IRON AND STEEL-2(c)AM(40).**—In exercise of the powers conferred by sub-clause (c) of clause 2 of the Iron and Steel (Control) Order, 1956, the Central Government hereby directs that the following further amendment shall be made to the notification of the Government of India, in the Ministry of Steel, Mines and Fuel, No S.R.O. 2041/ESS.COMM/IRON AND STEEL-2(c), dated 11th June, 1957, as amended from time to time, namely:—

In the Schedule annexed to the said notification, in column 2 thereof, against 'PUNJAB', for the existing entry No. 7, the following shall be substituted namely:

2

"7. Estate Officer and Sub-Divisional Officer  
(Building), Capital Project, Chandigarh

[No. SC(A)-1(10).]

J. S. BAIJAL, Under Secy.

**MINISTRY OF HEALTH**

*New Delhi, the 6th April 1959*

**S.O. 815.**—Dr. Chithraputhia Pillai Arumugam Pillai, LDSc, (Calcutta) has been elected as a member of the Dental Council of India from Madras under clause (a) of section 3 of the Dentists Act, 1948 (16 of 1948), with effect from the 18th March, 1959.

[No. F 6-10/59-MI.]

R. MURTHI, Under Secy.



**MINISTRY OF TRANSPORT AND COMMUNICATIONS**  
(Dep'ts. of Commns. & Civil Aviation)

*New Delhi, the 6th April 1959*

**S.O. 816.**—In pursuance of sub-rule (5) of rule 430 of the Indian Telegraphs Rules, 1951, the Central Government hereby specifies the 16th day of April 1959, as the date on which message rate system will be introduced at Asansol Telephone Exchange.

[No. 11-7/59-PHC.]

B. G. DESHMUKH, Under Secy.

**MINISTRY OF SCIENTIFIC RESEARCH AND CULTURAL AFFAIRS**

*New Delhi, the 9th April 1959*

**S.O. 817.**—In pursuance of sub-rule (1) of rule 48 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), the Central Government hereby appoints the officers specified in column 1 of Table below as the officers to whom notices of orders attaching the salaries and allowances of the officers specified in the corresponding entries in column 2 of the said table shall be sent.

TABLE

Officer to whom notices to be sent, 1	Officers whose salaries and allowances are attached. 2
1. Chief Botanist, Botanical Survey of India, Calcutta.	Gazetted & Non-gazetted officers of the Botanical Survey of India.
2. Secretary, Central Board of Geophysics, Calcutta.	Gazetted & Non-gazetted officers of the Central Board of Geophysics.
3. Deputy Director, National Atlas Organisation, Calcutta.	Gazetted & Non-gazetted officers of the National Atlas Organisation.

[No. F.14-79/59-SII.]

HARI SHANKAR, Under Secy.

**MINISTRY OF IRRIGATION AND POWER**  
**ORDER**

*New Delhi, the 4th April 1959*

**S. O. 818.**—In exercise of the powers conferred by sub-rule (2) of Rule 133 of the Indian Electricity Rules, 1956, the Central Government hereby directs that the provisions of—

- (i) Rule 118, proviso (a),
- (ii) Rule 119(1)(a),
- (iii) Rule 123(7).

of the said Rules shall be relaxed in the case of the use of—

One  $4\frac{1}{2}$  cu. yd. D. N. Menck Shovel, 3.3 K.V., No. 39764/64,

One 400 K.V.A., 3.3 K.V./525 volts, Corbe Lahmayor & Co., transformer serial No. NR653612,

A length of 600 ft. of 4 core, 163/0.018 sq. inch, cable as per B.S.S. 1116 of 1956,

at the Noamundi Iron ore mine of Messrs Tata Iron & Steel Co. Ltd., to the extent that (i) the working voltage of the said transportable excavating machine may not exceed 3,300 volts, (ii) the transformer and other associated equipment may not be fixed machines while moving from one place to another when installed on the transportable Shovel, and (iii) the length of the flexible cable with the

transportable machine may not exceed 600 ft., and that the relaxation shall be subject to the following conditions:

- (1) The 3000 volts supply to the flexible cable should be provided with earth-leakage protection,
- (2) The 550 volts supply used in this portable shovel for the different drives should also be covered by suitable earth-leakage protection.
- (3) The operators of the shovel should be duly trained and authorised.
- (4) The installations and wirings inside the shovel should comply with the relevant provisions of the Indian Electricity Rules, 1956, in particular, Rules 115 to 117, 120, 123 to 125 and 130.
- (5) The excavating machine shall be worked with due care so as to avert danger arising out of any electrical defect and the insulation resistance of the high voltage circuit, including the main driving motors shall not be less than 10 megohms,
- (6) The flexible trailing cable for use with the excavating machine shall be worked with due care so as to avert any danger arising out of it, shall be of adequate size and shall be connected to the electricity supply system and the machines by properly constructed connector boxes;

Provided that the aforesaid relaxation shall be valid only for such time as the said machine is in use in the mine and that due information shall be given to the Central Government through the Electric Inspector of Mines as soon as the machine is taken out of the mine.

[No. EL. III-3(9)/59.]

N. S. VASANT,

Officer on Special Duty.

#### MINISTRY OF REHABILITATION

(Office of the Chief Settlement Commissioner)

*New Delhi, the 8th April 1959*

**S.O. 819.**—In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints Shri H. K. Chaudhry for the time being holding the post of Regional Settlement Commissioner-cum-Custodian of Evacuee Property Bombay as Custodian for the State of Andhra Pradesh for the purpose of discharging the duties assigned to such officer by or under the said Act.

[No. 16(22)Admn(Prop)/58 ]

**S.O. 820.**—In exercise of the powers conferred by Sub-Section (i) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints Shri K. S. Raghavan for the time being holding the post of Accounts Officer in the office of the Custodian of Evacuee Property, Hyderabad, as Assistant Custodian for the purpose of discharging the duties assigned to the Custodian by or under the said Act, with effect from the date he took charge of his office.

[No. 16(22)Admn.(Prop)/59.]

M. L. PURI,

Settlement Commissioner & *Ex-Officio* Under Secy.

#### MINISTRY OF LABOUR & EMPLOYMENT

*New Delhi, the 7th April 1959*

**S.O. 821.**—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, framed under section 5 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri M. V. S. Chowdary, B.A. (Hons.), as Regional Provident Fund Commissioner for the whole of the State of Madras *vice* Shri J. Subbuswami, I.A.S., on leave. Shri M. V. S. Chowdary shall work under the general control and superintendence of the Central Provident Fund Commissioner.

[No. PF-I/31(582)/59.]

*New Delhi, the 9th April 1959*

**S.O. 822.**—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, 1952, framed under section 5 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri Mir Masood Ali Khan to be Regional Provident Fund Commissioner for the whole of the State of Mysore. Shri Mir Masood Ali Khan shall work under the general control and superintendence of the Central Provident Fund Commissioner.

[No. PF-I/31(584)/59.]

**S.O. 823.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri Mir Masood Ali Khan to be an Inspector for the whole of the State of Mysore for the purposes of the said Act and of any Scheme made thereunder, in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. PF-I/31(584)/59.]

**S.O. 824.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri R. R. Kulkarni, Assistant Provident Fund Commissioner, Bombay, to be an Inspector for the whole of the State of Bombay for the purposes of the said Act and of any Scheme made thereunder, in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. PF-I/31(586)/59.]

*New Delhi, the 11th April 1959*

**S.O. 825.**—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme framed under section 5 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri D. R. Manchanda as Regional Provident Fund Commissioner for the whole of the State of Punjab *vice* Shri H. R. Singh deputed to U.K. for training. Shri Manchanda shall work under the general control and superintendence of the Central Provident Fund Commissioner.

[No. PF-I/31(585)/59.]

**S.O. 826.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952) and in supersession of the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 1871 dated the 5th September, 1958 the Central Government hereby appoints Shri D. R. Manchanda, officiating Regional Provident Fund Commissioner, Punjab, as an Inspector for the whole of the State of Punjab for the purposes of the said Act and of any Scheme framed thereunder in relation to an establishment belonging to, or under the control of the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry *vice* Shri H. R. Singh.

[No. PF-I/31(585)/59.]

P. D. GAIHA, Under Secy.

*New Delhi, the 8th April 1959*

**S.O. 827.**—The President is pleased to appoint Shri Laxmi Narain Ohri as Inspector of Mines in the Department of Mines on probation for one year with effect from the 19th March, 1959.

[No. M-I-8(8)58(1).]

**S.O. 828.**—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints Shri Laxmi Narain Ohri, an officer of the Department of Mines to be an Inspector of Mines subordinate to the Chief Inspector.

[No. M-I-8(8)/58(ii).]

P. N. SHARMA, Under Secy.

*New Delhi, the 8th April 1959*

**S.O. 829.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Nagpur at Bombay in the industrial dispute between the employers in relation to the Bank of Rajasthan Ltd., Jaipur and their workmen.

**BEFORE SHRI P. D. VYAS, JUDGE, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR AT BOMBAY**

**REFERENCE (CGIT) No. 10 OF 1958.**

**AN ADJUDICATION BETWEEN**

The employers in relation to the Bank of Rajasthan Limited, Jaipur,

**AND**

Their Workmen.

In the matter of an industrial dispute relating to Head Cashier's allowance.

**APPEARANCES:**

Shri C. K. Garg, Advocate with Shri B. L. Sethi, Regional Manager of the Bank—for the Management.

Shri Dayaldas with Shri R. L. Khandelwal, General Secretary of the Union—for the workmen.

**AWARD**

In exercise of the powers conferred by clause (d) of the sub-section (1) of section 10 of the Industrial Disputes Act, 1947 the Central Government was pleased to refer an industrial dispute existing between the employers in relation to the Bank of Rajasthan Limited, Jaipur and their workmen for adjudication under the Government Order No. LR/II/10(92)/57, dated 7th July, 1958. The dispute relates to the matters specified in the schedule annexed to the said Government Order, as subsequently amended by the Government Order, of even number dated 8th October, 1958.

**THE SCHEDULE**

- (1) Whether Shri Jamnalal Porwal, Head Cashier of the Bank of Rajasthan Limited was entitled to Rs. 10 per mensem as Head Cashier's allowance while working at Bhilwara Office of the Bank?
- (2) Whether on his transfer to Jaipur from Bhilwara he should have continued to get Rs. 10 per mensem as Head-Cashier's allowance?
- (3) Whether he was entitled to get Rs. 8 or Rs. 10 or Rs. 20 as Head Cashier's allowance?

2. On the usual notices being issued, the General Secretary, Rajasthan Bank Employees' Union has filed the statement of claims on behalf of the workmen and the Regional Manager, Bank of Rajasthan Limited, has filed the written statement on behalf of the Bank.

3. The case on behalf of the workmen is that Shri Jamnalal Porwal was appointed at the Bhilwara office of the Bank on 15th May, 1951, as Head Cashier and he had been working as such at the said office. It was after he made a claim for special allowance and overtime allowance in February, 1956 and began to work as an active member of the Union that he was transferred to Johari Bazar Branch of the Bank at Jaipur. He has been so transferred in order to deprive him of the Head Cashier's allowance and thus victimize him for his trade union activities. He was being shown as Head Cashier in various documents of the Bank like Tills Book, Attendance Register, Salary Sheets, Security Bonds etc. and at Bhilwara he used to check the work of other cashiers, report on the leave applications of other cashiers and keep keys in his possession. Bhilwara office is a treasury branch and there were three cashiers and more than 5 clerks when he was working as Head Cashier at Bhilwara Branch. Under the Bank award a special allowance of Rs. 20 p.m. is payable in case of Cashier-in-charge of Treasury Pay Offices and Rs. 10 p.m. in the units of 5 clerks and above Shri Jamnalal Porwal is, therefore, entitled to special allowance of Rs. 20 p.m. with effect from 1st April, 1954. The Bank should thus be directed to pay accordingly and to continue to pay him Head Cashier's allowance at the same rate in future.

4. The Bank in its written statement has raised certain preliminary objections against the present reference because Shri Jamnalal Porwal has been referred to as Head Cashier of the Bank in the terms of reference. The Bank's case is that he was at no time the Head Cashier and if it were so found, the present reference is bad in law and liable to be rejected. The Bank has further contended that the subsequent amendment in item No. 3 of the schedule is incompetent and without jurisdiction. In resisting the case of the workmen on merits the Bank alleges that Shri Jamnalal Porwal applied for the post of a Cashier in the Bhilwara Branch and he was appointed as such on a salary of Rs. 55 p.m. in the grades of Rs. 50-4-70. He never worked as Head Cashier at Bhilwara Branch nor was he given officially any such designation. The documents and books referred to in the statement of claims when considered as a whole do not show him as Head Cashier or lead to the conclusion that the Bank accepted him as such. In any case this controversy has been set at rest by the order of the General Manager dated 27th December, 1957, whereby he was allowed an allowance of Rs. 8 per month by way of concession while he was at Bhilwara. Except in point of fact that the keys of the cash of the Bank were being kept by him under the double lock system with the Manager, at no time he had any cashier or clerk working under his control. After his transfer to Jaipur he is working as a routine Cashier. His transfer took place in the ordinary course of the Management of the Bank and in furtherance of the policy of the Bank for implementing the Bank Award without causing loss to the employees. A large number of transfers were made in or about the same period. In the circumstances the reference should be rejected in favour of the Bank together with costs.

5. It may be noted that the preliminary objections raised in the Bank's written statement have not been pressed or argued at the time of the hearing and in fact there is not much substance in the same. The terms of reference do not prevent an inquiry as to whether Shri Jamnalal Porwal was a Head Cashier of the Bank of Rajasthan Limited. If he is found to be a Head Cashier, then we have to determine the amount payable to him as Head Cashier's allowance under the Bank Award while he was working at Bhilwara office of the Bank and also to decide whether even on his transfer from Bhilwara to Jaipur he should continue to get the same amount by way of Head Cashier's allowance. We have therefore first to decide whether Shri Jamnalal Porwal was really a Head Cashier of the Bank of Rajasthan Ltd. and was working as such at Bhilwara office of the Bank.

6. It was on 5th March, 1951, that Shri Porwal applied to the General Manager, Bank of Rajasthan, Limited stating that there existed a vacancy of Cashier at the Bank's Bhilwara Branch for which post he offered himself as a candidate. In stating his qualifications he mentioned the fact that he had been working as Head Cashier in Bharat Bank Limited, Bhilwara since the last five years—vide Ex. C-4. On receipt of this application he was served with the appointment letter dated 15th May, 1951 (Ex. C-5) on a pay of Rs. 55 plus the D.A. in the grade of Rs. 50-4-70. The appointment letter states *inter alia* that the Bank shall have the right to allot any duties to him and shall have the right to transfer him to any place where the Bank may need his services. The order of appointment does not state in terms as to whether he was appointed as an ordinary Cashier or Head Cashier but there can be no doubt that almost right from the beginning in most of the company's records including registers, correspondence etc. he was being shown as Head Cashier. This fact receives further support from the higher amount of security which he was required to furnish. The amount of security in the case Cashiers is Rs. 3,000 and for Head Cashiers it is Rs. 5,000. It is true that the Bank has now in its attempt to show that Shri Jamnalal Porwal was working as Cashier produced certain papers. But even the management could not deny or overcome the overwhelming effect of the documentary evidence as a whole indicating the fact that Shri Porwal was right from the beginning treated as Head Cashier.

7. The most important document is the Attendance register where in the month of April 1951 the name of Shri Jamnalal Porwal at serial No. 11 appears to have been subsequently added with the designation Cashier. The ink differs from that of the other entries and there is no attendance marked with his initials as in the case of other employees. As a matter of fact the appointment letter of Shri Porwal is dated 15th May, 1951, and is difficult to understand how there could occur any such entry in the month of April 1951. In fact from the next month onwards, i.e. from May 1951 he on his appointment is being shown in the register as Head Cashier. When right from the beginning he is shown as head cashier, it is just probable that in view of his previous experience as head cashier, he was entrusted with the duties of a head cashier and treated as such. In the extract of the salary sheets Ex. (U-2) he has been shown as Head Cashier and

he gave the security bond as per Ex. U-5 in his capacity as Head Cashier at Bhilwara Branch of the Bank on 19th April, 1952. The then Manager of the Bank gave a certificate dated 6th April, 1953 (Ex. U-6) that Shri Porwal worked with him as Head Cashier for about two years and that his work was very satisfactory. The Bank's notification Ex. U-7 indicates the difference between the security to be furnished by the Head Cashier and Assistant Cashiers. It was as such that on his transfer to Jaipur Branch of the Bank he handed over the charge to his successor as Head Cashier (Ex. U-10).

8. Shri Porwal has made an affidavit describing his duties as per Ex. U-11 and it was argued on behalf of the management that all these duties have not been mentioned in the statement of claims filed on behalf of the workmen. Ordinarily a workman comes forward with a case that mere designation should not count and that in order to determine the wages he is entitled to as belonging to a particular category, what has to be seen is the essential nature of the duties performed by him. In the present case however, the management has come forward with such a plea. In the first place we can conceive of a case where a man of higher category knowingly or through oversight or mistake being described as of lower category, but I have hardly come across a case where the management would be so careless or indifferent as to give a higher designation to a worker, even though he belongs to and does the work of a lower category. The overwhelming evidence on record indicates that Shri Porwal was shown right from the time of his appointment as Head Cashier and it hardly lies in the mouth of the management to say that though shown as head-cashier, he actually performed the duties of an ordinary cashier. In fact he cannot be placed on par with other cashiers, especially when it has not been denied that he was in-charge of the cash and entrusted with the keys apart from the other duties which he performed. The general supervision of the Branch Manager is bound to be there but here is a cashier holding keys and performing responsible duties in regard to cash. He did not stand on the same level as other cashiers and the cumulative effect of the evidence on record which even the management could not withstand is that he was not merely shown as Head Cashier but he actually worked as such. It is true that ordinarily mere designation in the absence of standardization of duties may not serve as a correct guide as to the real position held by a particular worker. But in the present case the management itself felt constrained to set the controversy at rest by the order of the General Manager dated 27th December, 1957—vide Ex. U-1 under which Shri Porwal was allowed the special allowance of Rs. 8 p.m. as Head Cashier at Bhilwara with retrospective effect from 1st April, 1954. Not only this but as it appears from the Bank's written statement, even on his transfer to Jaipur the payment of this allowance has not been discontinued because of the genuine fear on the part of the Bank that it might amount to a demotion. Under all these circumstances there could be no doubt that right from the time of his appointment at Bhilwara Shri Porwal worked as Head Cashier and was being treated as such.

9. We have next to decide the quantum of special allowance payable to Shri Porwal in his capacity as Head Cashier under paragraph 164 of the Bank award. This is a 'C' class Bank and if we refer to the items 3 & 4, the amounts payable would be Rs. 10 in case of units of 5 clerks and above and Rs. 8 in case of units of 4 clerks and below. In the statement of claims it is alleged that in the Bhilwara branch office there were three cashiers and more than five clerks when Shri Porwal was working as Head Cashier. On the point of the strength of the staff however he has not much enlightened us in his affidavit. On the contrary there is an affidavit of the Branch Manager on behalf of the management which indicates that when Shri Porwal was at Bhilwara, there were besides himself two other cashiers from 1951 to October, 1952 and July, 1955 to July 1956 and only one other cashier from November, 1952 to June, 1955. In my opinion he would be entitled to the special allowance of Rs. 8 only and not Rs. 10. The worker concerned however has not much confined his case to the question as to whether Rs. 10 or Rs. 8 should be payable to him as special allowance. He has gone further and tried to put his case under the item No. 8 in order to claim Rs. 20. The item No. 8 in paragraph 164 of the award relates to the "cashiers in charge of cash in Treasury pay offices and employees in charge of pay offices or sub-offices." Obviously this is not a provision specially made for a Head Cashier as such, though of course even if a Head Cashier was incharge of cash in Treasury Pay office or was an employee incharge of pay office or sub-office, he would be entitled to claim the allowance of Rs. 20. This new claim on the part of the worker concerned seems to be an after-thought and he is entitled to claim no such allowance of Rs. 20 in view of the fact that at Bhilwara there is a regular branch of the Bank and it is neither a pay-office nor a sub-office. The branch may be doing the Government work but that does not make it a pay office. Even the workmen's representative could not urge that the Bhilwara branch is a pay

office; and what he urged is that when such special allowance has been provided for in the case of pay offices, there is no reason why the Head Cashier performing similar duties with some responsibilities should not be likewise entitled to similar allowance. According to him in the Bank Award the case of such Banks which act as bankers to the State Government and run treasury has been overlooked and consideration has been given only to pay offices which as is commonly known only the State Bank of India has. It may be noted that such pay offices specially provided at small places do not perform the functions of a full-fledged branch of the Bank and as an ordinary cashier or any other employee can be placed in charge thereof, his remuneration is further supplemented by a higher allowance looking to the responsibilities attached to his sole-charge. Moreover the case before us is not of an independent adjudication on merits. The workers' claim is based on the Bank Award and if the Bank Award has chosen to provide for such special allowance only in the case of pay offices he has no case to demand any such allowance of Rs. 20.

10. In the circumstances stated above we find that Shri Porwal in his capacity as Head Cashier at Bhilwara Branch was entitled to the special allowance of Rs. 8 with effect from 1st April, 1954 under the Bank Award. This fact has been recognised by the Bank under its aforesaid order of the General Manager dated 27th December, 1957. What the management has, however, done is that the payment of this special allowance of Rs. 8 has not been actually made but has been adjusted in a certain manner. Under the Bank Award the pay scales were prescribed for the different categories of workmen and in making adjustment in the new scales no one was to be adversely affected. The Bank is aware of this fact and it has been mentioned in its own written statement that if a workman was already receiving a higher amount, then the difference was to be treated as temporary adjustment allowance which was to be adjusted against future increments according to the recommendations in the Report of the Bank Award Commission. So far as this Bank is concerned, it has not chosen to make any such adjustment against the future increments and this temporary adjustment allowance was continued to be paid to its employees in the shape of *ex-gratia* allowance under the General Manager's order dated 7th February, 1956. On 1st April, 1954 Shri Porwal was already getting Rs. 80 plus Rs. 30 as D.A., i.e., Rs. 110 and in order to carry out the adjustment under the award, the amount of Rs. 110 as on 1st April, 1954 was made up thus: Rs. 63 basic, Rs. 25 D.A. and Rs. 22 temporary adjustment allowance.

11. Thus Shri Porwal was entitled to get this Rs. 22 for temporary adjustment allowance as *ex-gratia* allowance according to the general practice followed by the Bank in the case of all its employees. But when the claim of special allowance as Head Cashier was advanced by him which the Bank could hardly deny in the circumstances of the case, what the Bank did was to withdraw this concession of *ex-gratia* allowance and adjust the special Head Cashier's allowance of Rs. 8 as against the said temporary adjustment allowance of Rs. 22 so as to reduce it to Rs. 14 and to show the difference of Rs. 8 as Head Cashier's allowance. Thus what was given with one hand has been taken away by the other keeping intact the same total payment of Rs. 110. This is entirely a wrong method followed by the Bank and according to the recommendations in the Report of the Bank Award Commission this temporary adjustment allowance was to be adjusted in a certain manner against the future increments. The Bank has not chosen to follow this line in the case of its employees and there is no reason why the Bank should depart from its usual practice and discriminate against this worker just to defeat his claim of special allowance as Head Cashier. In my opinion the Bank ought to pay Rs. 8 as special allowance to Shri Porwal as Head Cashier with effect from 1st April, 1954 for the period of his service at Bhilwara irrespective of and without bringing in the question of the temporary adjustment allowance.

12. Then the next question is whether he should continue to receive the same allowance on his transfer from Bhilwara to Jaipur. He left charge on 27th July, 1956 on transfer from Bhilwara and joined at Jaipur on 1st August, 1956. At Jaipur he is posted as an ordinary cashier but, as said above, in order to avoid the charge of demotion the Bank has continued to pay the special allowance of Rs. 8 which he was entitled to as Head Cashier. Thus at present he draws Rs. 90 as basic, Rs. 8 as special allowance, Rs. 37.34 D.A., i.e. in all Rs. 135.34. The worker's claim is that he should get Rs. 90 as basic plus Rs. 20 as special allowance and Rs. 41.89 as D.A., i.e., Rs. 151.89. I have already said that he is not entitled to get Rs. 20 and as Head Cashier he is entitled to the special allowance of Rs. 8 with effect from 1st April, 1954. If the Bank has made any adjustment of this special allowance towards temporary adjustment allowance, it is incorrect to do so, in view of the fact that the Bank continued to pay the said temporary

adjustment allowance as *ex-gratia* allowance to all its workers. So also Shri Porwal having right from the beginning worked as Head Cashier and being treated as such, it would not be proper on the part of the Bank to post him as an ordinary Cashier on transfer and thus deprive him of the benefit of special allowance payable to him. It is pertinent to note that his transfer has not taken place in the normal administrative exigencies of the Bank but we were told that many such transfers have been made with a view to carry out the implementation of the Bank Award. It was never the intention of the Bank Tribunal that benefits admissible to the workers under the award should be adjusted by means of transfer. On the point of policy regarding transfer, there is the Chapter XXVIII in the Bank Award and the direction in paragraph 536 is that in general the policy should be to limit the transfers to the minimum consistent with banking needs and efficiency. In paragraph 537 it has been observed: "Strictly limiting the number of transfers will greatly reduce the difficulty of shifting people as between higher scale and lower scale areas in the matter of pay and allowances..." In the present case it will be open to the Bank to take duties of a Head Cashier from Shri Porwal on his transfer, in which case the amount payable to him in future will depend on as to whether his case falls under item No. 3 or No. 4 of the paragraph 164 of the Bank Award.

13. In the result I direct that Shri Porwal was entitled to special allowance of Rs. 8 as Head Cashier while he was working at Bhilwara office of the Bank with effect from 1st April, 1954. On his transfer to Jaipur from Bhilwara the amount payable to him will depend on the position of the Jaipur branch as to whether his case falls under the items Nos. 3 or 4 of para 164 of the Bank Award. If it is a unit of 5 clerks and above, then he is entitled to Rs. 10 and if it is a unit of 4 clerks and below, then he would be entitled to Rs. 8. At present he is posted as an ordinary cashier and it will be open to the Bank to take the work from him of a Head Cashier and pay the allowance of Rs. 8 or 10 according as his case falls under the items 3 & 4 and until that is done the only direction that can be given at this stage is that the Bank should continue to pay him the special allowance of Rs. 8 which he was already getting at Bhilwara.

The 28th March, 1959.

(Sd.) P. D. VYAS, Judge,

Central Government Industrial Tribunal, Nagpur at Bombay.

[No. LR II 10(92)57.]

### ORDERS

New Delhi, the 6th April 1959

**S.O. 830.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Lloyds Bank Limited, Madras and their workmen in respect of the matters specified in the schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri F. Jeejeebhoy, shall be the Presiding Officer, with headquarters at Bombay and refers the said dispute for adjudication to the said industrial tribunal.

### SCHEDULE

Whether the discharge of Shri Munian Arumugam by the Lloyds Bank Limited, was justified and in order; and, if not, to what relief he is entitled.

[No. LR II-10(20)/59.]

New Delhi, the 7th April 1959

**S.O. 831.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Laxmi Bank Limited, Head Office, Akola and their workmen in respect of the matters specified in the schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;



Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri F. Jeejeebhoy, Chairman, Labour Appellate Tribunal, shall be the Presiding Officer, with headquarters at Bombay and refers the said dispute for adjudication to the said industrial tribunal.

#### SCHEDULE

1. Whether the cashiers given power of attorney or similar powers under a Resolution of the Board of Directors by the Laxmi Bank Limited, Akola, are performing duties of more important nature and undertaking heavier responsibilities than those performed or undertaken by the cashiers of this Bank with no such powers?
2. If so, should the cashiers holding the power of attorney or similar powers under a Resolution of the Board of Directors, be paid an allowance for such duties and responsibilities at a rate higher than the special allowance paid to cashiers without such powers? If so, what should be the rate payable to them and from what date?

[No. LR11-10(31)/59.]

K. D. HAJELA, Under Secy.

#### MINISTRY OF INFORMATION AND BROADCASTING

*New Delhi-2, the 9th April 1959*

**S.O. 832.**—In exercise of the powers conferred by sub-rule (2) of rule 4 of the Cinematograph (Censorship) Rules, 1958 read with section 3(1) of the Cinematograph Act, 1952 (37 of 1952), the Central Government hereby appoints Shri M. Satyanarayana, M.P., as a member of the Central Board of Film Censors with immediate effect.

[No. F. 11/5/59-FC.]

D. R. KHANNA, Under Secy.

